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## BILL 101

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to amend the  
Election Finances Reform Act

Mr. FOULDS



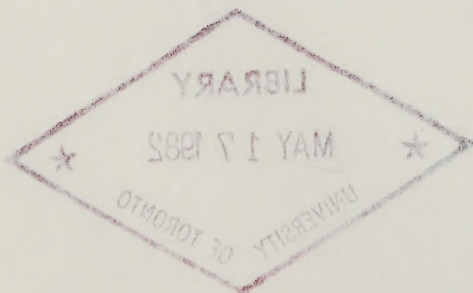
TORONTO

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EXPLANATORY NOTE

The purpose of the Bill is to prohibit advertising by the Government of Ontario during a provincial election campaign. The Bill contains exemptions from the general prohibition for advertising related to the administration of the election and advertising required for emergency purposes.





BILL 101

1982

## An Act to amend the Election Finances Reform Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Election Finances Reform Act*, being chapter 134 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 38a,  
enacted

38a.—(1) The Government of Ontario shall not, during the period between the day the writ for an election is issued and polling day, Limitation  
on  
government  
advertising

- (a) advertise on the facilities of any broadcasting undertaking; or
- (b) procure for publication, cause to be published or consent to the publication of an advertisement in a newspaper, magazine or other periodical publication or through the use of outdoor advertising facilities,

for any purpose.

- (2) Subsection (1) does not apply, Exceptions

- (a) to any advertisement respecting the enumeration and revision of lists of voters or respecting any other matter in relation to the administration of the election; and
- (b) to any advertisement required for emergency purpose, the subject-matter of which is approved before the advertisement is broadcast or published by the leader of each political party represented in the Assembly at the time the writ for the election was issued.

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is the *Election Finances Reform Amendment Act, 1982*. Short title

An Act to amend the  
Election Finances Reform Act

1st Reading

May 4th, 1982

2nd Reading

3rd Reading

MR. FOULDS

(Private Member's Bill)



## BILL 102

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

# An Act to amend the Assessment Act

Mr. BOUDRIA



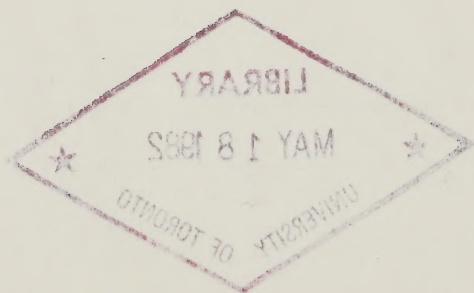
TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

EXPLANATORY NOTE

The Bill provides an informal procedure whereby the 1981 and 1982 assessments of real property in which urea formaldehyde foam insulation was installed before December 18, 1980 may be reduced by half and any overpayment of taxes may be refunded.

The Bill also provides that in ordinary assessment appeals, it shall be presumed that the value of real property in which urea formaldehyde insulation was installed before December 18, 1980 has thereby been reduced by half.



BILL 102

1982

## An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 36a,  
enacted

36a.—(1) Despite subsections 36 (1) and (2), where an owner or tenant of real property provides evidence that satisfies the clerk that urea formaldehyde foam insulation was installed in the real property before the 18th day of December, 1980, the clerk shall reduce the 1981 and 1982 assessments by half and shall revise the assessment rolls accordingly. Reduction of  
assessment  
where  
property  
insulated  
with urea  
formaldehyde  
foam insulation

(2) The clerk shall, within thirty days after an owner or tenant provides evidence to the clerk under subsection (1), advise every owner or tenant of the real property in writing of the clerk's decision under subsection (1). Notice  
of clerk's  
decision

(3) An owner or tenant who is dissatisfied with the clerk's decision under subsection (1) may appeal to the Assessment Review Court by mailing a written notice of appeal to the proper regional registrar within thirty days after notice of the clerk's decision is received. Appeal to  
Assessment  
Review Court

(4) Where a notice of appeal is given under subsection (3), the Assessment Review Court shall determine the manner in an informal manner and its decision is final. Appeal  
to be  
determined  
informally

(5) Where the Assessment Review Court determines that urea formaldehyde foam insulation was installed before the 18th day of December, 1980, in real property, the assessment of which is the subject of an appeal under subsection (3), the regional registrar shall give the clerk written notice of the Court's decision and the clerk shall reduce the 1981 and 1982 assessments and shall revise the assessment rolls accordingly. Reduction of  
assessment  
on appeal



Adjustment  
of taxes

(6) Where an assessment is reduced under subsection (1) or (5), subsection 36 (6) applies with all necessary modifications.

s. 39 (6a),  
enacted

**2.** Section 39 of the said Act is amended by adding thereto the following subsection:

Presumption  
re urea  
formaldehyde  
foam  
insulation

(6a) Where the complainant establishes that urea formaldehyde foam insulation was installed in the real property to which the assessment relates before the 18th day of December, 1980 and has not been removed from the real property, there is a presumption that the value of the real property has thereby been reduced by half.

Commence-  
ment

**3.** This Act comes into force on the day it receives Royal Assent.

Short title

**4.** The short title of this Act is the *Assessment Amendment Act, 1982*.









An Act to amend the Assessment Act

*1st Reading*

May 6th, 1982

*2nd Reading*

*3rd Reading*

MR. BOUDRIA

*(Private Members' Bill)*

12004  
3  
856  
**BILL 103**

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY  
1  
2

**An Act to ensure the Safety of Prescribed  
Burns in Ontario**

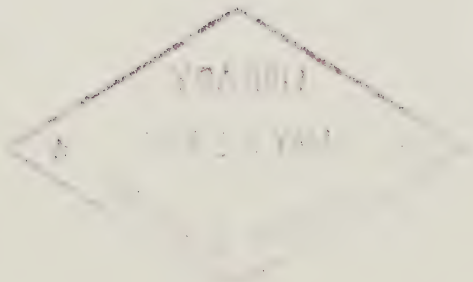
MR. VAN HORNE





#### EXPLANATORY NOTE

The purpose of the Bill is to ensure that prescribed burns are conducted in a safe manner. The Bill provides for the appointment of a Fire Safety Officer who is required to examine each place at which it is intended to set a prescribed burn. Prescribed burns are prohibited unless permission is first obtained from the Fire Safety Officer. The Fire Safety Officer must refuse permission if, in the opinion of the officer, it would not be safe to set the prescribed burn. The Bill contains a provision that extends the application of the Bill to the Crown.



BILL 103

1982

## An Act to ensure the Safety of Prescribed Burns in Ontario

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act, "prescribed burn" means a fire that results from the deliberate application of fire to forest fuels in a specified area for silvicultural, wildlife management, sanitary or hazard reduction purposes. Interpretation

**2.—(1)** There shall be an officer of the Ministry of the Solicitor General, to be known as the Fire Safety Officer, who shall be appointed by the Lieutenant Governor in Council. Fire Safety Officer

**(2)** The Lieutenant Governor in Council may appoint one or more Deputy Fire Safety Officers who may exercise the powers of the Fire Safety Officer under the authority of or in the absence, illness or incapacity of the Fire Safety Officer. Deputy Fire Safety Officers

**3.** No person shall set a fire for the purpose of effecting a prescribed burn without having first obtained permission in writing from the Fire Safety Officer, which permission may be limited as to duration and area and may contain such terms and conditions as the Fire Safety Officer considers necessary. Leave to be obtained before

**4.** The Fire Safety Officer, on being requested to set a prescribed burn, shall examine the place at which it is intended to set the fire and the adjacent land and the timber, trees and other property thereon, and he shall refuse the request if, in his opinion, it would not be safe to set a prescribed burn. Inspection by Fire Safety Officer

**5.** The Fire Safety Officer may, at any time, in the interest of safety extinguish a prescribed burn or order any person in charge or apparently in charge of a prescribed burn to extinguish it. Order to extinguish

**6.** The permission of a Fire Safety Officer to set a prescribed burn shall not be pleaded or given in evidence in any action for negligently setting a prescribed burn or in mitigation of damages, Leave not to be relied on in actions for negligence

but the absence of such permission is *prima facie* evidence of negligence.

Offence

**7.** Every person who contravenes section 3 or who fails to comply with an order under section 5 is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than one year, or to both.

Application  
to Crown

**8.** This Act binds the Crown.

Commence-  
ment

**9.** This Act comes into force on the day it receives Royal Assent.

Short title

**10.** The short title of this Act is the *Prescribed Burns Safety Act, 1982*.









An Act to ensure the Safety of  
Prescribed Burns in Ontario

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*1st Reading*

May 10th, 1982

*2nd Reading*

*3rd Reading*

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MR. VAN HORNE

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*(Private Member's Bill)*

## BILL 104

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

## An Act to amend the Consumer Protection Act

MR. VAN HORNE



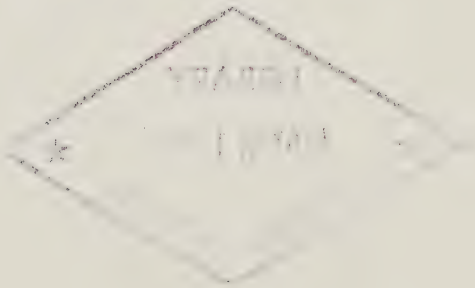
TORONTO

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide protection against the sale of stolen property. The Bill requires persons who deal in used goods to record the name and address of each person from whom they purchase used goods. A dealer in used goods is prohibited from reselling the goods for a period of seven days after the date of purchase. Where the dealer has reason to suspect that the used goods have been stolen, the dealer is under a duty to report the matter to the police.



## An Act to amend the Consumer Protection Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 36b,  
enacted

36b.—(1) In this section, “dealer in used goods” means a person, association of individuals, partnership or corporation that carries on business as a buyer of used goods for the purposes of resale. Interpre-  
tation

(2) Every dealer in used goods shall record each purchase of used goods in a book to be kept by the dealer and shall indicate for each purchase, Record of  
used goods  
purchase

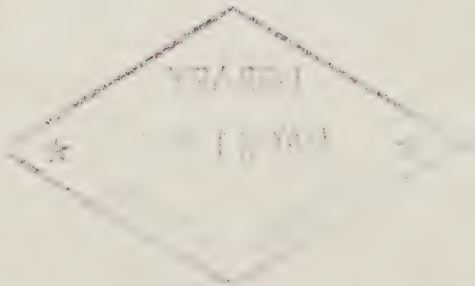
- (a) the day, month and year in which the purchase was made;
- (b) the full name, address and a description of the person selling the used goods reasonably sufficient to identify that person, and where the person selling the used goods states that he is the agent of the owner, the name and address of the owner;
- (c) a description of the goods reasonably sufficient to identify them; and
- (d) the purchase price of the used goods.

(3) Where a dealer has reasonable cause to suspect that used goods have been stolen or otherwise unlawfully obtained, the dealer shall forthwith report the matter to a member of the police force of the municipality in which the dealer carries on business. Where goods  
suspected to  
have been  
stolen

(4) A dealer shall not offer used goods for sale for at least seven days after the date on which the goods were purchased by the dealer. Waiting  
period

#### EXPLANATORY NOTE

The purpose of the Bill is to provide protection against the sale of stolen property. The Bill requires persons who deal in used goods to record the name and address of each person from whom they purchase used goods. A dealer in used goods is prohibited from reselling the goods for a period of seven days after the date of purchase. Where the dealer has reason to suspect that the used goods have been stolen, the dealer is under a duty to report the matter to the police.



BILL 104

1982

## An Act to amend the Consumer Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Consumer Protection Act*, being chapter 87 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section: s. 36b,  
enacted

36b.—(1) In this section, “dealer in used goods” means a person, association of individuals, partnership or corporation that carries on business as a buyer of used goods for the purposes of resale. Interpre-  
tation

(2) Every dealer in used goods shall record each purchase of used goods in a book to be kept by the dealer and shall indicate for each purchase, Record of  
used goods  
purchase

- (a) the day, month and year in which the purchase was made;
- (b) the full name, address and a description of the person selling the used goods reasonably sufficient to identify that person, and where the person selling the used goods states that he is the agent of the owner, the name and address of the owner;
- (c) a description of the goods reasonably sufficient to identify them; and
- (d) the purchase price of the used goods.

(3) Where a dealer has reasonable cause to suspect that used goods have been stolen or otherwise unlawfully obtained, the dealer shall forthwith report the matter to a member of the police force of the municipality in which the dealer carries on business. Where goods  
suspected to  
have been  
stolen

(4) A dealer shall not offer used goods for sale for at least seven days after the date on which the goods were purchased by the dealer. Waiting  
period

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

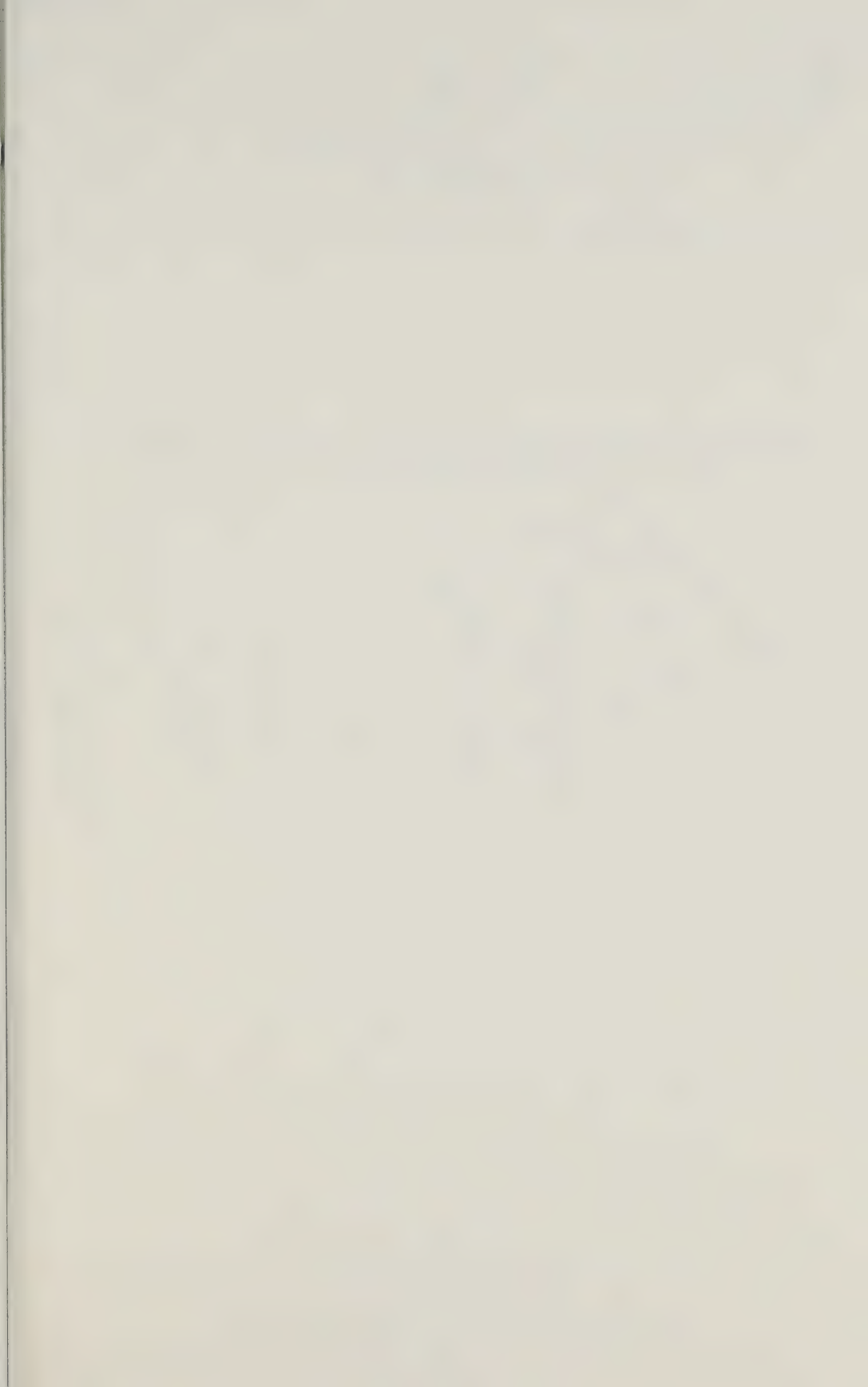
Short title

**3.** The short title of this Act is the *Consumer Protection Amendment Act, 1982*.









An Act to amend the  
Consumer Protection Act

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*1st Reading*

May 10th, 1982

*2nd Reading*

*3rd Reading*

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MR. VAN HORNE

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*(Private Member's Bill)*

856

<sup>✓</sup>  
3  
BILL 105

Government Bill

Publication

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982 <sup>2</sup>/<sub>1</sub>

An Act respecting the Mortgage Financing of Rideau Centre  
in the City of Ottawa



THE HON. N. STERLING  
Provincial Secretary for Justice

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

Rideau Centre is a major real estate development in downtown Ottawa which is to consist of a convention centre, hotel, office building, retail and commercial facilities and park areas and is intended to be the focus of a significant redevelopment in downtown Ottawa planned by the National Capital Commission. Rideau Centre will be conveyed to the federal Crown in 2033 for a nominal consideration of \$1.00.

It is proposed that the owners, in order to obtain favourable financing for the development, will grant an option to the mortgage lenders to acquire a 35 per cent interest in the development. At common law, an option granted as a part of a mortgage financing transaction is considered to be a clog or fetter on the mortgagor's right to redeem the property upon payment of the moneys owing under the mortgage and for that reason is unenforceable.

It is considered desirable that, having regard to the nature of the development, the common law rule not apply to this transaction because it is too restrictive. Accordingly, the Bill provides that the common law rule does not apply.

BILL 105

1982

## An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

(a) "development" means,

- (i) the lands and premises described in the Schedule,
- (ii) all buildings, fixtures and improvements now or hereafter erected or located on or under the lands and premises referred to in subclause (i), and
- (iii) all rights-of-way, easements, franchises and privileges now or hereafter benefiting the lands and premises referred to in subclause (i);

(b) "Rideau Centre" means the development and all present and future right, title and interest therein and all present and future benefit and advantage to be derived therefrom, including all leases of, or agreements relating to, all or part of the development and all rentals and other moneys payable under the leases and agreements and all benefit and advantage to be derived therefrom.

**2.** An option to acquire a legal or beneficial interest in Rideau Centre, granted as part of a mortgage financing of Rideau Centre, is not invalid, unenforceable or void by reason only that the option is inconsistent with or repugnant to, or a fetter or clog on, the mortgagor's legal or equitable right of redemption. Option  
authorized

**3.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

Short title

4. The short title of this Act is the *Rideau Centre Mortgage Financing Act, 1982*.

#### SCHEDULE

All and singular those certain parcels or tracts of land and premises situate, lying and being in the City of Ottawa in the Regional Municipality of Ottawa-Carleton, Province of Ontario, and

Being composed of lands and air space described as follows:

Firstly - All of Lots 4, 5, 6 and 7 on the south side of Rideau Street, all of Lots 4, 5, 6 and 7 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered on the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, together with those portions of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, known as part of Lot 7 and part of Lot 8 on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1, 2, 3 and 4 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Secondly - Part of Freiman Street (formerly Mosgrove Street), closed by By-Law No. 172-80, registered in the said Registry Office as Inst. No. NS89593, together with part of Besserer Street (formerly St. Paul Street), and those lands taken for the widening thereof (namely, part of Little Sussex Street, part of Lots 4 and 5, also known as Forgie's Lot, and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street, part of Lot 1 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying between the Tannery Lot and the Ashery Lot), now closed by By-Law No. 173-80 registered in the said Registry Office as Inst. No. NS86385, and designated as PARTS 5, 6, 7, 8, 9 and 10 on said reference plan No. 5R-5671;

Subject to a public utilities easement in favour of the Corporation of the City of Ottawa in, along and under that portion of the said lands designated as PARTS 18 to 25, both inclusive, on a reference plan deposited in the said Registry Office as No. 5R-5106, and as described in an instrument registered in the said Registry Office as No. NS115590;

Thirdly - Part of Lots 4 and 5 (also known as Forgie's Lot), and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street (closed by By-Law Nos. 328-59 and 7469, registered in the said Registry Office as Inst. Nos. 395967 and 207861 (Firstly) respectively), part of Lot 1, all of Lot 2 and part of Lots 3 and 4 on the east side of Mosgrove Street, all of Lot 2 and part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane) closed by By-Law No. 6583 registered in the said Registry Office as No. 196026, all of Lot 10 and part of Lot 9 on the east side of Turgeon Lane (formerly Mill Lane), all of Lot 1 and part of Lot 2 on the west side of Nicholas Street, part of Little Sussex Street and part of Currier Lane (both closed by By-Law No. 7946 registered in the said Registry Office as Inst. No. 213433), all of Lots 1, 2, 3 and 4 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 and part of the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, all according to the said registered plan No. 3922, together with parts of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 12, 13, 14, 15, 16 and 34 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of Lot 4 on the south side of Besserer Street (formerly St. Paul Street), also known as Forgie's Lot, part of Currier Lane and part of Little Sussex Street (both closed by By-Law No. 7946), part of Lot 1 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 on the south side of Currier Lane, all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 28 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Reserving thereout and therefrom a watermain easement, in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 30 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Fourthly - Part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 207861 (Firstly)), parts of Lot 4 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 7 and 8 on the east side of Turgeon Lane (formerly Mill Lane), all of Lots 6 and 7 and part of Lots 3, 4 and 8 on the west side of Nicholas Street, part of Lot 6 on the north side of Court Street (formerly Albert Street), part of Court Street (formerly Albert Street closed by By-Law Nos. 2254 and 2264, registered in the said Registry Office as Inst. No. 69370, and by By-Law No. 30-69, registered in the said Registry Office as Inst. No. 555007), all of Lots 67 to 72, both inclusive, on the south side of Court Street (formerly Albert Street), part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), all according to said registered plan No. 3922, together with part of the Ordnance Lands being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39 and 40 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 41, 42, 44, 59, 60, 62, 63, 64 and 79 on said reference plan No. 5R-5557.

Reserving thereout and therefrom a watermain easement in, along and under part of Lot 8 on the west side of Nicholas Street, part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), part of Lots 69, 70 and 71 on the south side of Court Street (formerly Albert Street), according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 42, 43, 47, 48, 49,



52, 55, 60, 61, 62, 64 and 68 on said reference plan No. 5R-5557.

Subject to a Bell Canada easement registered in the said Registry Office as Inst. No. 589377 over those portions of the said lands designated as PARTS 49, 50, 53 and 75 on said reference plan No. 5R-5557.

Fifthly - The air space and all rights therein, over and above those portions of the unnumbered triangular lot lying to the rear of Lot 1 and the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, part of the Tannery Lot, part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 20786 (Firstly)), part of Lots 3 and 4 on the east side of Mosgrove Street, part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane, closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 8 and 9 on the east side of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with parts of the Ordnance Lands being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and which air space is designated as PARTS 17, 18, 19, 20, 21, 22 and 35 on said reference plan No. 5R-5671.

Sixthly - Part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1 and 2 on a reference plan deposited in the said Registry Office as No. 5R-5725.

Seventhly - All of Lot 9 and the west half of Lot 10 on the south side of Rideau Street, all of Lot 9 and the west half of Lot 10 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, and designated as PART 11 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Subject to a right-of-way at all times, for all persons entitled thereto, over, along and upon that portion of the said west half of Lot 10, south Rideau Street and the said

west half of Lot 10, north Besserer Street (formerly St. Paul Street), designated as PART 67 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Together with a right-of-way at all times in common with others entitled thereto, over, along and upon a strip of land being part of the east half of said Lot 10, south Rideau Street and part of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street), described as follows:

Commencing at the southwesterly angle of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street),

Thence northerly along the division line between the east and west halves of the said lot and along the division line between the east and west halves of said Lot 10, south Rideau Street, in all a distance of 37.29 metres;

Thence easterly and parallel with the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), a distance of 1.37 metres;

Thence southerly in a straight line, a distance of 37.29 metres to a point in the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), distant 1.37 metres measured easterly thereon from the said south-westerly angle of the east half thereof;

Thence westerly along the southerly limit of said Lot 10, a distance of 1.37 metres to the said point of commencement.

Subject to the conditions of a party wall agreement as set out in an instrument registered in the said Registry Office as No. 172503.







An Act respecting the Mortgage Financing  
of Rideau Centre in the City of Ottawa

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*1st Reading*

May 13th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. N. STERLING  
Provincial Secretary for Justice

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*(Government Bill)*

# BILL 105

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE COUNCIL

## An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

THE HON. N. STERLING  
Provincial Secretary for Justice



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO





BILL 105

1982

## An Act respecting the Mortgage Financing of Rideau Centre in the City of Ottawa

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

(a) "development" means,

- (i) the lands and premises described in the Schedule,
- (ii) all buildings, fixtures and improvements now or hereafter erected or located on or under the lands and premises referred to in subclause (i), and
- (iii) all rights-of-way, easements, franchises and privileges now or hereafter benefiting the lands and premises referred to in subclause (i);

(b) "Rideau Centre" means the development and all present and future right, title and interest therein and all present and future benefit and advantage to be derived therefrom, including all leases of, or agreements relating to, all or part of the development and all rentals and other moneys payable under the leases and agreements and all benefit and advantage to be derived therefrom.

**2.** An option to acquire a legal or beneficial interest in Rideau Centre, granted as part of a mortgage financing of Rideau Centre, is not invalid, unenforceable or void by reason only that the option is inconsistent with or repugnant to, or a fetter or clog on, the mortgagor's legal or equitable right of redemption.

Option  
authorized

**3.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

Short title

4. The short title of this Act is the *Rideau Centre Mortgage Financing Act, 1982*.

#### SCHEDULE

All and singular those certain parcels or tracts of land and premises situate, lying and being in the City of Ottawa in the Regional Municipality of Ottawa-Carleton, Province of Ontario, and

Being composed of lands and air space described as follows:

Firstly - All of Lots 4, 5, 6 and 7 on the south side of Rideau Street, all of Lots 4, 5, 6 and 7 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered on the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, together with those portions of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, known as part of Lot 7 and part of Lot 8 on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1, 2, 3 and 4 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Secondly - Part of Freiman Street (formerly Mosgrove Street), closed by By-Law No. 172-80, registered in the said Registry Office as Inst. No. NS89593, together with part of Besserer Street (formerly St. Paul Street), and those lands taken for the widening thereof (namely, part of Little Sussex Street, part of Lots 4 and 5, also known as Forgie's Lot, and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street, part of Lot 1 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying between the Tannery Lot and the Ashery Lot), now closed by By-Law No. 173-80 registered in the said Registry Office as Inst. No. NS86385, and designated as PARTS 5, 6, 7, 8, 9 and 10 on said reference plan No. 5R-5671;

Subject to a public utilities easement in favour of the Corporation of the City of Ottawa in, along and under that portion of the said lands designated as PARTS 18 to 25, both inclusive, on a reference plan deposited in the said Registry Office as No. 5R-5106, and as described in an instrument registered in the said Registry Office as No. NS115590;

Thirdly - Part of Lots 4 and 5 (also known as Forgie's Lot), and 13 and 14 on the south side of Besserer Street (formerly St. Paul Street), part of the Tannery and Ashery Lots, part of Mosgrove Street (closed by By-Law Nos. 328-59 and 7469, registered in the said Registry Office as Inst. Nos. 395967 and 207861 (Firstly) respectively), part of Lot 1, all of Lot 2 and part of Lots 3 and 4 on the east side of Mosgrove Street, all of Lot 2 and part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane) closed by By-Law No. 6583 registered in the said Registry Office as No. 196026, all of Lot 10 and part of Lot 9 on the east side of Turgeon Lane (formerly Mill Lane), all of Lot 1 and part of Lot 2 on the west side of Nicholas Street, part of Little Sussex Street and part of Currier Lane (both closed by By-Law No. 7946 registered in the said Registry Office as Inst. No. 213433), all of Lots 1, 2, 3 and 4 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 and part of the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, all according to the said registered plan No. 3922, together with parts of the Ordnance Lands, being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 12, 13, 14, 15, 16 and 34 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of Lot 4 on the south side of Besserer Street (formerly St. Paul Street), also known as Forgie's Lot, part of Currier Lane and part of Little Sussex Street (both closed by By-Law No. 7946), part of Lot 1 and part of the unnumbered triangular lot lying to the west of Lot 1 and part of the unnumbered triangular lot lying to the rear of Lot 1 on the south side of Currier Lane, all according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 28 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Reserving thereout and therefrom a watermain easement, in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PART 30 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Fourthly - Part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 207861 (Firstly)), parts of Lot 4 on the east side of Mosgrove Street, part of Turgeon Lane (formerly Mill Lane closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 7 and 8 on the east side of Turgeon Lane (formerly Mill Lane), all of Lots 6 and 7 and part of Lots 3, 4 and 8 on the west side of Nicholas Street, part of Lot 6 on the north side of Court Street (formerly Albert Street), part of Court Street (formerly Albert Street closed by By-Law Nos. 2254 and 2264, registered in the said Registry Office as Inst. No. 69370, and by By-Law No. 30-69, registered in the said Registry Office as Inst. No. 555007), all of Lots 67 to 72, both inclusive, on the south side of Court Street (formerly Albert Street), part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), all according to said registered plan No. 3922, together with part of the Ordnance Lands being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 37, 38, 39 and 40 on said reference plan No. 5R-5671;

Reserving thereout and therefrom a sewer tunnel easement in, along and under part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 41, 42, 44, 59, 60, 62, 63, 64 and 79 on said reference plan No. 5R-5557.

Reserving thereout and therefrom a watermain easement in, along and under part of Lot 8 on the west side of Nicholas Street, part of Lots 67 to 72, both inclusive, on the north side of Wilbrod Street (formerly Slater Street), part of Lots 69, 70 and 71 on the south side of Court Street (formerly Albert Street), according to said registered plan No. 3922, together with part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and designated as PARTS 42, 43, 47, 48, 49,



52, 55, 60, 61, 62, 64 and 68 on said reference plan No. 5R-5557.

Subject to a Bell Canada easement registered in the said Registry Office as Inst. No. 589377 over those portions of the said lands designated as PARTS 49, 50, 53 and 75 on said reference plan No. 5R-5557.

Fifthly - The air space and all rights therein, over and above those portions of the unnumbered triangular lot lying to the rear of Lot 1 and the unnumbered lots lying to the rear of Lots 2, 3 and 4, all on the south side of Currier Lane, part of the Tannery Lot, part of the Ashery Lot, part of Mosgrove Street (closed by By-Law No. 7469 registered in the said Registry Office as Inst. No. 20786 (Firstly)), part of Lots 3 and 4 on the east side of Mosgrove Street, part of Lot 3 on the west side of Turgeon Lane (formerly Mill Lane), part of Turgeon Lane (formerly Mill Lane, closed by By-Law No. 6583, registered in the said Registry Office as Inst. No. 196026), part of Lots 8 and 9 on the east side of Turgeon Lane (formerly Mill Lane), all according to said registered plan No. 3922, together with parts of the Ordnance Lands being parts of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, and which air space is designated as PARTS 17, 18, 19, 20, 21, 22 and 35 on said reference plan No. 5R-5671.

Sixthly - Part of the Ordnance Lands, being part of Lot 'C', Concession 'C', Rideau Front, Township of Nepean, now in the said City of Ottawa, lying on the north side of Besserer Street (formerly St. Paul Street), according to said registered plan No. 3922, and designated as PARTS 1 and 2 on a reference plan deposited in the said Registry Office as No. 5R-5725.

Seventhly - All of Lot 9 and the west half of Lot 10 on the south side of Rideau Street, all of Lot 9 and the west half of Lot 10 on the north side of Besserer Street (formerly St. Paul Street), according to a plan of subdivision registered in the Registry Office for the Registry Division of Ottawa-Carleton (No. 5) as No. 3922, and designated as PART 11 on a reference plan deposited in the said Registry Office as No. 5R-5671;

Subject to a right-of-way at all times, for all persons entitled thereto, over, along and upon that portion of the said west half of Lot 10, south Rideau Street and the said

west half of Lot 10, north Besserer Street (formerly St. Paul Street), designated as PART 67 on a reference plan deposited in the said Registry Office as No. 5R-5557.

Together with a right-of-way at all times in common with others entitled thereto, over, along and upon a strip of land being part of the east half of said Lot 10, south Rideau Street and part of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street), described as follows:

Commencing at the southwesterly angle of the east half of said Lot 10, north Besserer Street (formerly St. Paul Street),

Thence northerly along the division line between the east and west halves of the said lot and along the division line between the east and west halves of said Lot 10, south Rideau Street, in all a distance of 37.29 metres;

Thence easterly and parallel with the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), a distance of 1.37 metres;

Thence southerly in a straight line, a distance of 37.29 metres to a point in the southerly limit of said Lot 10, north Besserer Street (formerly St. Paul Street), distant 1.37 metres measured easterly thereon from the said south-westerly angle of the east half thereof;

Thence westerly along the southerly limit of said Lot 10, a distance of 1.37 metres to the said point of commencement.

Subject to the conditions of a party wall agreement as set out in an instrument registered in the said Registry Office as No. 172503.









An Act respecting the Mortgage Financing  
of Rideau Centre in the City of Ottawa

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*1st Reading*

May 13th, 1982

*2nd Reading*

June 29th, 1982

*3rd Reading*

June 30th, 1982

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THE HON. N. STERLING  
Provincial Secretary for Justice

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**BILL 106**

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982



**An Act to amend the Legislative Assembly Act**

MR. BREAGH

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The purpose of the Bill is to prevent persons from bringing firearms into the Chamber without the Speaker's authorization.

BILL 106

1982

## An Act to amend the Legislative Assembly Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 45 (1) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:
  12. Bringing or possessing a firearm within the Chamber, including the public galleries, without the authorization of the Speaker.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Legislative Assembly Amendment Act, 1982*.

s. 45 (1),  
amendedBringing  
firearms into  
ChamberCommence-  
ment

Short title



An Act to amend the  
Legislative Assembly Act

*1st Reading*

May 13th, 1982

*2nd Reading*

*3rd Reading*

MR. BREAUQH

*(Private Member's Bill)*



3  
BILL 107

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

**An Act respecting French Language Services  
in Ontario**



MR. ROY

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Co-ordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

#### NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

BILL 107

1982

## An Act respecting French Language Services in Ontario

**W**HEREAS the French language is an historic, honoured Preamble  
and constitutional language of Canada, and whereas  
there is need to give legal definition to the rights of citizens  
to have Ontario Government services provided in French;

Therefore, Her Majesty, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario, enacts  
as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Language Services Board established under section 5;
- (b) "Co-ordinator" means the French Language Services Co-ordinator appointed under section 6;
- (c) "Government of Ontario" includes every board, commission, corporation and agency thereof.

**2.** Subject to section 7, the Government of Ontario shall Government  
to provide  
French  
language  
services  
ensure the provision of educational, judicial, health, social, municipal and other public services in Ontario in the French language in accordance with this Act and with recommendations contained in the report of the Language Services Board or a report of the Co-ordinator of French Language Services.

**3.** The English and French languages may be used by any Legislative  
Assembly  
person in any proceedings of the Legislative Assembly or a committee thereof, and the Order Papers, Votes and Proceedings, records and reports of the Assembly or any committee thereof may be printed in both the English and French languages, and any Bill or motion may be introduced in both the English and French languages, and any Act of the Legislative Assembly may be printed and published in both the English and French languages.

Statutes      4.—(1) Subject to sections 6 and 7, the Acts designated by the Co-ordinator of French Language Services shall be printed and published in English and French and the annual Statutes of Ontario shall be printed and published in English and French.

Statutes      (2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language  
Services  
Board      5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman      (2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of  
office      (3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties      (4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause (b);
- (d) recommend a time schedule for implementing the recommendations in clauses (b) and (c), and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

**6.—**(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordi-  
nator of  
French  
Language  
Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French  
Language  
Services  
Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordi-  
nator's  
report

**7.—**(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement  
of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing  
Committee

**8.—**(1) Nothing in this Act shall be construed as authorizing a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or considered by the Language Services Board or the Co-ordinator.

Idem

Courts (3) Court proceedings and hearings shall be conducted in  
 R.S.O. 1980, the French language in accordance with the *Judicature*  
 c. 223 *Act* as amended from time to time.

Commence- **9.** This Act comes into force on the day it receives Royal  
 ment Assent.

Short title **10.** The short title of this Act is the *Ontario French*  
*Language Services Act, 1982.*



## PROJECT DE LOI 107

1982

**Loi concernant les services assurés en français en Ontario**

ATTENDU le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français,

Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

**1** Dans la présente loi,

Définitions

“Conseil” désigne le Conseil des services en langue française établi par l'article 5;

“Coordonnateur” désigne le Coordonnateur des services en langue française nommé en vertu de l'article 6;

“Gouvernement de l'Ontario” comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

**2** Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française.

Prestation par le gouvernement de services en langue française

**3** Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français.

Assemblée législative

**4** (1) Sous réserve des articles 6 et 7, les lois désignés par le Coordonnateur des services en langue française sont imprimés et publiés en anglais et en français et les Statuts annuels de l'Ontario sont imprimés et publiés en anglais et en français.

Statuts

## Statuts

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

## Conseil des services en langue française

**5** (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

## Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

## Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

## Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

## Coordonnateur des services en langue française

**6** (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

## Comité des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'ai-

der le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux  
R.S.O. 1980,  
c. 223

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

Entrée en vigueur

10 Le titre abrégé de la loi est *Loi de 1982 sur les services en langue française en Ontario*.

Titre abrégé





An Act respecting  
French Language Services  
in Ontario

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*1st Reading*

May 13th, 1982

*2nd Reading*

*3rd Reading*

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MR. ROY

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*(Private Member's Bill)*

✓✓  
3  
BILL 108

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982 ✓  
1



An Act to amend the Ontario New Home Warranties Plan Act

MR. PHILIP

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO





#### EXPLANATORY NOTE

The Bill would entitle a new home purchaser to hold back up to \$3,000 from the purchase price of the home to cover unfinished work.

BILL 108

1982

## An Act to amend the Ontario New Home Warranties Plan Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Ontario New Home Warranties Plan Act*, being chapter 350 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

17a.—(1) Every agreement between a vendor and a prospective owner shall be deemed to contain a provision entitling the prospective owner to pay up to \$3,000 of the purchase price to the prospective owner's solicitor, to be held in trust for the parties and to be,

s. 17a,  
enacted

Holdback  
to cover  
unfinished  
work

- (a) released to the vendor when all work on the home is completed; or
- (b) applied in payment or on account of damages incurred by the owner in respect of unfinished work on the home.

(2) The Corporation shall, upon the request of an owner or vendor, conciliate any dispute between the owner and the vendor with respect to the completion of work on the home and the disbursement of the holdback under subsection (1).

Conciliation  
of disputes

2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Ontario New Home Warranties Plan Amendment Act, 1982*.

Commence-  
ment

Short title

An Act to amend the  
Ontario New Home Warranties Plan Act

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*1st Reading*

May 13th, 1982

*2nd Reading*

*3rd Reading*

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MR. PHILIP

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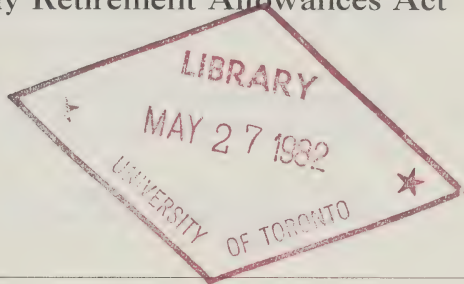
*(Private Member's Bill)*

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982 ✓1

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An Act to amend the  
Legislative Assembly Retirement Allowances Act



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THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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#### EXPLANATORY NOTES

SECTION 1. Section 11 of the Act (in Part I) provides for spouse's allowances. The section is re-enacted to provide benefits similar to those provided by section 19 in Part II of the Act.

Section 4 of the Act states that Part I applies to a person who was a member of the Assembly on the 1st day of October, 1973 and a person who was a member before such date, but does not apply to a member who has elected to contribute under Part II.

The re-enacted section 11 is deemed to have come into force on the 12th day of July, 1977, the day that a similar amendment to section 19 (in Part II of the Act) came into force.

## An Act to amend the Legislative Assembly Retirement Allowances Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 11 of the *Legislative Assembly Retirement Allowances Act*, <sup>s. 11, re-enacted</sup> being chapter 236 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

11.—(1) Where a former member who is receiving an allow- <sup>Spouse's allowance</sup>ance dies leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to,

- (a) 60 per cent of the allowance that the former member was receiving at the date of his or her death; and
  - (b) in respect of each child under the age of eighteen years, to a maximum of three children of the former member, 10 per cent of the allowance that the former member was receiving at the date of his or her death.
- (2) Where a member dies, <sup>Computation of allowance</sup>
- (a) leaving a spouse, the spouse shall be paid during his or her lifetime an allowance equal to the greater of,
    - (i) an amount equal to 25 per cent of the annual indemnity of the member in effect immediately before his or her death, or
    - (ii) an amount equal to,
      - A. 60 per cent of the allowance that the member had earned to the date of his or her death, and
      - B. in respect of each of not more than three children of the member under the age of eighteen years, 10 per cent of the allowance that the member had earned to the date of his or her death,

computed in the manner provided in section 6 or 9, as the case may be, but based on the member's service to the time of his or her death, and where the spouse dies leaving a child or children of the former member who at the date of the death of the spouse is or are under the age of eighteen years, an allowance equal to that paid or that would be paid to the spouse shall be paid to or for the child or children until such age is attained; or

- (b) leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the allowance that would have been paid to the spouse of the member under clause (a) if the spouse had survived the member shall be paid to or for the child or children until such age is attained.

Option

(3) The spouse,

- (a) of a person who had elected under section 6 or 9 to take a deferred allowance at age fifty-five but who died before attaining such age;
- (b) of a person who was eligible to make an election to take a deferred or an immediate allowance under section 6 or 9 but died before making the election,

at any time may elect to take a deferred allowance, in which case, commencing on the day that the person would have attained the age of fifty-five had he or she lived, the spouse shall be paid during his or her lifetime an allowance equal to,

- (c) 60 per cent of the allowance to which the person would have been entitled at that time; and
- (d) in respect of each child under the age of eighteen years, to a maximum of three children of the person, 10 per cent of the allowance to which the person would have been entitled at that time,

or may elect to take an immediate allowance, in which case the spouse shall be paid during his or her lifetime an allowance equal to the amount calculated in accordance with clauses (c) and (d) reduced actuarially in accordance with the tables prescribed by the regulations, which the person would have been entitled to receive at the time of the spouse's election.

Idem

- (4) Where a person referred to in clause (3) (a) or (b) dies leaving no spouse but leaving a child or children under the age of eighteen years, an allowance equal to the immediate allowance provided for in subsection (3), reduced actuarially in accordance





SECTION 2. Clause 14 (*a*) of the Act (in Part II) defines “average annual remuneration”. Subclause (ii) of the definition is amended to refer to thirty-six months instead of three fiscal years as the basis for calculations.

SECTION 3. Clause 32 (*b*) of the Act provides for prescribing tables by regulation. The amendment is complementary to the re-enactment of section 11.

with the tables prescribed by the regulations for the purposes of subsection (3), shall be paid to or for the child or children until such age is attained.

(5) For the purposes of this section, a person who has attained the age of eighteen years but has not attained the age of twenty-five years and who is in full-time attendance at a school, college, university or other institution that is recognized by the Board of Internal Economy for the purposes of this section as a place of higher education shall be deemed not to have attained the age of eighteen years. Exception for higher education

**2.**—(1) Subclause 14 (a) (ii) of the said Act is amended, s. 14 (a) (ii), amended

(a) by striking out “three fiscal years” in the fifth line and inserting in lieu thereof “thirty-six months”; and

(b) by striking out “years” where it occurs the second time in the fifth line and inserting in lieu thereof “months”.

(2) Subclause 14 (a) (ii) of the said Act, as amended by subsection (1), does not apply in respect of a person who became or who becomes entitled to an allowance under the said Act before the day this section comes into force. Application of subclause as amended

**3.** Clause 32 (b) of the said Act is amended by inserting after “subsection 9 (4)” in the second line “section 11”. s. 32 (b), amended

**4.**—(1) This Act, except section 1, comes into force on the day it receives Royal Assent. Commencement

(2) Section 1 shall be deemed to have come into force on the 12th day of July, 1977. Idem

**5.** The short title of this Act is the *Legislative Assembly Retirement Allowances Amendment Act, 1982*. Short title

An Act to amend the Legislative  
Assembly Retirement Allowances Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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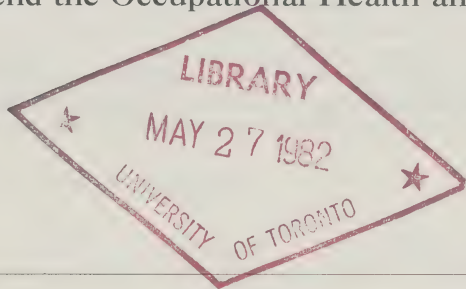
THE HON. T. L. WELLS  
Minister of Intergovernmental Affairs

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*(Government Bill)*

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the Occupational Health and Safety Act



THE HON. R. H. RAMSAY  
Minister of Labour

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTES

SECTION 1. The proposed re-enactment of subsection 21 (3) clarifies the application of subsections 21 (1) and (2). The proposed subsection 21 (4) provides a method of resolving disputes as to whether or not an agent is a new biological or chemical agent or combination of such agents. The proposed subsection 21 (5) authorizes the Minister to make orders for the purposes of subsection 21 (3) and will have the effect of confirming an existing order made under subsection 21 (3).

SECTION 2. The proposed re-enactment of section 22 clarifies the "notice and comment" procedures to be followed with respect to the making of regulations related to designated substances. At present, section 22 applies only to regulations made under paragraph 14 of subsection 41 (2) of the Act. The re-enactment extends the application of section 22 to regulations made under both paragraphs 14 and 15 of subsection 41 (2).

SECTION 3. Self-explanatory.

## An Act to amend the Occupational Health and Safety Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 21 (3) of the *Occupational Health and Safety Act*, being chapter 321 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 21 (3),  
re-enacted

(3) Subsection (1) does not apply to, Application

(a) agents, whether in combination or not, used in one or more work places in Ontario on or before the 1st day of October, 1979; or

(b) agents, whether in combination or not, mentioned in an inventory compiled or adopted by order of the Minister.

(4) Where a dispute arises as to the application of this section, a Director may investigate the matter and issue an order directing compliance therewith, and subsections 20 (4) to (7) and (9) to (12) apply, with all necessary modifications, to such order. Orders of  
Director

(5) The Minister has, and shall be deemed always to have had, the power to compile or adopt, by order, one or more inventories for the purposes of subsection (3). Minister's  
order

2. Section 22 of the said Act is repealed and the following substituted therefor: s. 22,  
re-enacted

22.—(1) Where a regulation is to be made prescribing a biological, chemical or physical agent or combination thereof as a designated substance and prohibiting, regulating, restricting, limiting or controlling the handling of, exposure to, or the use and disposal thereof, the Minister shall publish in *The Ontario Gazette* a notice, setting forth the proposed regulation and calling for comments, briefs or submissions thereon to be filed in writing Designation  
of  
substances

with the Minister within sixty days of the publication of the notice or within such longer period as the Minister may specify in the notice.

Making of  
regulation

(2) Upon expiry of the period allowed for the filing of briefs, comments and submissions under subsection (1), the Lieutenant Governor in Council may make the regulation with or without amendments.

Publication  
not required

(3) Where a regulation is made under subsection (2) with amendments, the regulation need not be republished under subsection (1) but shall be deposited with the chairman or vice-chairman of the Advisory Council on Occupational Health and Occupational Safety and shall not be filed under the *Regulations Act* until at least thirty days have elapsed after notice of the depositing is published in *The Ontario Gazette*.

R.S.O. 1980,  
c. 446

Amending  
regulations

(4) Subsections (1) to (3) apply to every regulation that amends or repeals a regulation that has been made in accordance with subsection (2).

Saving  
R.S.O. 1980,  
c. 321

**3.** A regulation to which section 22 of the *Occupational Health and Safety Act* applied, as that section read immediately prior to the coming into force of this Act, shall not be adjudged defective or invalid by reason of the fact that the regulation as made is not the same as the proposed regulation as published under clause (b) of that section.

Commence-  
ment

**4.** This Act comes into force on the day it receives Royal Assent.

Short title

**5.** The short title of this Act is the *Occupational Health and Safety Amendment Act, 1982*.









An Act to amend the  
Occupational Health and Safety Act

---

*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. R. H. RAMSAY  
Minister of Labour

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*(Government Bill)*

# BILL 111

Government Bill

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

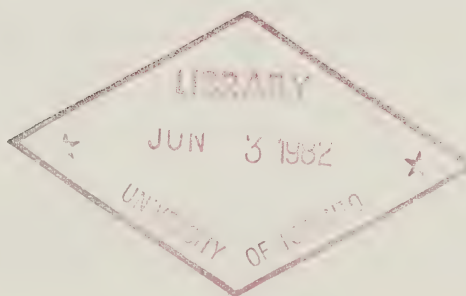
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## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing moneys for the Consolidated Revenue Fund. The principal borrowings authorized by Ontario Loan Acts in recent years have been:

1. Borrowings from the Canada Pension Plan
2. The Ontario Treasury Bill program
3. CMHC Waste Control Loans
4. Federal-Provincial-Municipal Loan programs.

The amount of \$2.25 billion authorized by the Bill is intended to cover the following estimated borrowing requirements:

1. Canada Pension Plan borrowings
2. Teachers' Superannuation Fund borrowings.

The Bill provides that any unused borrowing authority will expire on September 30, 1983.

## BILL 111

1982

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,250,000,000.

Loans up to  
\$2,250,000,000

R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

R.S.O. 1980,  
cc. 494, 348

2. No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1983.

Limitation

3. This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

4. The short title of this Act is the *Ontario Loan Act, 1982*.

Short title

An Act to authorize the Raising  
of Money on the Credit of the  
Consolidated Revenue Fund

---

*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

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*(Government Bill)*

# BILL 111

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

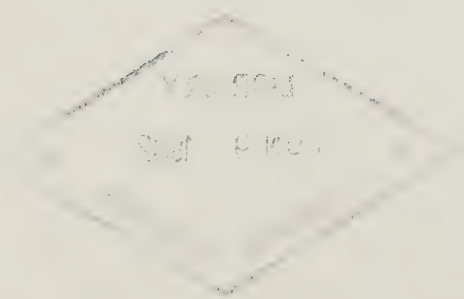
LEGISLATIVE ASSEMBLY

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics







## BILL 111

1982

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

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Loans up to  
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R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act* and to the Ontario Municipal Employees Retirement Fund under authority of the *Ontario Municipal Employees Retirement System Act*, but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

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cc. 494, 348

**2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made prior to the 30th day of September, 1983.

Limitation

**3.** This Act comes into force on the day it receives Royal Assent.

Commence-  
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**4.** The short title of this Act is the *Ontario Loan Act, 1982*.

Short title

An Act to authorize the Raising  
of Money on the Credit of the  
Consolidated Revenue Fund

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*1st Reading*

May 14th, 1982

*2nd Reading*

June 22nd, 1982

*3rd Reading*

June 22nd, 1982

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THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

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# BILL 112

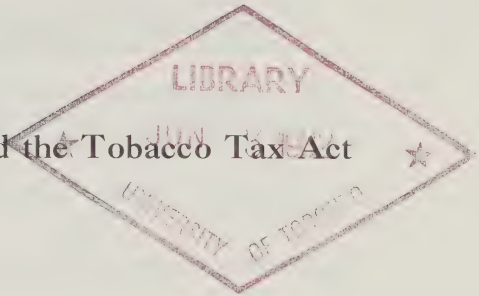
Government Bill

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

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## An Act to amend the Tobacco Tax Act



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THE HON. G. L. ASHE  
Minister of Revenue

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## EXPLANATORY NOTES

### GENERAL

The Bill enacts proposals in the Treasurer's Budget,

- (a) to increase the rate of tax on tobacco products to 40 per cent of the taxable price per cigarette or gram of tobacco;
- (b) to increase the maximum compensation payable to wholesale dealers with respect to their collection and remittance of tax to \$2,000; and
- (c) to provide an allowance in respect of tobacco loss due to undetermined causes not greater than .1 per cent of the amount of tax collected and remitted by a designated collector.

In addition to these changes, an administrative change is proposed that will clarify the responsibility of the assignee of the book debts of a collector in respect of the tax portion of the book debts received.

SECTION 1.—Subsection 1. Subsection 2 (1) of the Act now reads as follows:

- (1) *Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,*

- (a) *36 per cent of the taxable price per cigarette on every cigarette purchased by him;*
- (b) *30 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and*
- (c) *45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent,*

*and until a taxable price per cigarette or taxable price per gram is prescribed by regulation by the Minister in accordance with this Act, every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of,*

- (d) *1.46 cents on every cigarette purchased by him; and*
- (e) *0.7 cents on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him.*

The amendment increases the rate of tax payable by consumers of tobacco products to 40 per cent of the taxable price per cigarette or 40 per cent of the taxable price per gram of tobacco, other than cigarettes or cigars, as determined from time to time by the Minister.

Subsection 2. The Subsection proposed to be added provides that a person designated as agent of the Minister to collect and remit tax may not assign the tax portion of his book debts. Where an assignee of a collector's book debts collects those debts, he is required to collect and account for the tax portion of the debts.

## An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 (1) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 2, is repealed and the following substituted therefor: s. 2 (1),  
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of, Tax on  
consumers

(a) 40 per cent of the taxable price per cigarette on every cigarette purchased by him;

(b) 40 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and

(c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

- (2) Section 2 of the said Act is amended by adding thereto the following subsection: s. 2,  
amended

(5) Where a person designated a collector under this Act or the regulations has made an assignment of his book debts, whether by way of specific or general assignment, or in any other manner disposes of his present or future right to collect his book debts, such assignment does not include that portion of the book debts that the collector, as agent for the Minister, charged the person to whom he sold the tobacco as tax under this Act, and any assignee or any other person who collects the book debts shall be deemed to be a collector under the Act and shall collect, remit and account under the Act and the regulations for the unassigned portion. Assignment  
of book  
debts

s. 8 (3) (a),  
re-enacted

**2.**—(1) Clause 8 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) \$2,000; or

s. 8,  
amended

(2) Section 8 of the said Act is amended by adding thereto the following subsection:

Allowance  
for loss  
due to  
shrinkage

(4) Where a collector designated under this Act or the regulations collects and transmits to the Treasurer the tax imposed by this Act, he may be paid an allowance in respect of loss of tobacco due to undetermined causes not greater than .1 per cent of the amount of tax so collected and transmitted and a collector may deduct such allowance from the amount otherwise to be transmitted to the Treasurer in accordance with this Act and the regulations.

Commence-  
ment

**3.**—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) shall be deemed to have come into force on the 1st day of April, 1982.

Idem

(3) Section 1 shall be deemed to have come into force on the 14th day of May, 1982.

Idem

(4) Subsection 2 (2) comes into force on the 1st day of June, 1982.

Short title

**4.** The short title of this Act is the *Tobacco Tax Amendment Act, 1982*.

SECTION 2.—Subsection 1. The re-enactment of clause 8 (3) (a) of the Act increases the maximum compensation payable to wholesale dealers in respect of their collection and remittance of tax from \$1,000 to \$2,000.

Subsection 2. The subsection proposed to be added provides for the payment of an allowance for tobacco loss due to undetermined causes not greater than .1 per cent of the amount of tax collected and remitted by a designated collector.







An Act to amend  
the Tobacco Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. G. L. ASHE  
Minister of Revenue

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*(Government Bill)*

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**BILL 112**

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to amend the Tobacco Tax Act**

THE HON. G. L. ASHE  
Minister of Revenue



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



## An Act to amend the Tobacco Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 2 (1) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1981, chapter 4, section 2, is repealed and the following substituted therefor: s. 2 (1),  
re-enacted

(1) Every consumer shall pay to Her Majesty in right of Ontario a tax at the rate of, Tax on  
consumers

- (a) 40 per cent of the taxable price per cigarette on every cigarette purchased by him;
- (b) 40 per cent of the taxable price per gram on every gram or part thereof of any tobacco, other than cigarettes or cigars, purchased by him; and
- (c) 45 per cent of the price at retail of every cigar that is purchased by him, provided that where the application of such rate of tax produces a fraction of a cent, the fraction shall be counted as one full cent.

- (2) Section 2 of the said Act is amended by adding thereto the following subsection: s. 2,  
amended

(5) Where a person designated a collector under this Act or the regulations has made an assignment of his book debts, whether by way of specific or general assignment, or in any other manner disposes of his present or future right to collect his book debts, such assignment does not include that portion of the book debts that the collector, as agent for the Minister, charged the person to whom he sold the tobacco as tax under this Act, and any assignee or any other person who collects the book debts shall be deemed to be a collector under the Act and shall collect, remit and account under the Act and the regulations for the unassigned portion. Assignment  
of book  
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s. 8 (3) (a),  
re-enacted

**2.**—(1) Clause 8 (3) (a) of the said Act is repealed and the following substituted therefor:

(a) \$2,000; or

s. 8,  
amended

(2) Section 8 of the said Act is amended by adding thereto the following subsection:

Allowance  
for loss  
due to  
shrinkage

(4) Where a collector designated under this Act or the regulations collects and transmits to the Treasurer the tax imposed by this Act, he may be paid an allowance in respect of loss of tobacco due to undetermined causes not greater than .1 per cent of the amount of tax so collected and transmitted and a collector may deduct such allowance from the amount otherwise to be transmitted to the Treasurer in accordance with this Act and the regulations.

Commence-  
ment

**3.**—(1) This Act, except sections 1 and 2, comes into force on the day it receives Royal Assent.

Idem

(2) Subsection 2 (1) shall be deemed to have come into force on the 1st day of April, 1982.

Idem

(3) Section 1 shall be deemed to have come into force on the 14th day of May, 1982.

Idem

(4) Subsection 2 (2) comes into force on the 1st day of June, 1982.

Short title

**4.** The short title of this Act is the *Tobacco Tax Amendment Act, 1982*.









An Act to amend  
the Tobacco Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

June 22nd, 1982

*3rd Reading*

June 24th, 1982

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THE HON. G. L. ASHE  
Minister of Revenue

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982 ✓

An Act to amend the Provincial Land Tax Act



THE HON. G. L. ASHE  
Minister of Revenue

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



## EXPLANATORY NOTES

GENERAL. The Bill implements the proposals in the Treasurer's Budget increasing the rate of provincial land tax payable on pipe lines situate in territory without municipal organization and also replaces the provincial land tax now imposed on land of a telephone or telegraph company situate in territory without municipal organization with a new annual tax of an amount equal to 5 per cent of the gross receipts of such companies from business carried on in territory without municipal organization.

The Bill also provides for various housekeeping and administrative provisions, many of which are made to parallel provisions contained in the *Assessment Act*.

SECTION 1.—Subsection 1. Amends the definition of “land” to parallel the definition of that term contained in the *Assessment Act*. The subclauses to be repealed now read as follows:

(c) “land” includes,

(vi) the interest in land of a tenant or occupant,

(vii) the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

Subsection 2. The amendment to repeal the definition of “owner” contained in clause 1 (h) of the Act is consequential on later amendments contained in the Bill which are made to parallel provisions contained in the *Assessment Act*, whereby both an owner and tenant of land receive notices of assessment but, only the owner receives a bill for tax. The definition of “owner” is replaced with a definition of “tenant” by subsection 1 (3) of the Bill.

Clause 1 (h) now reads as follows:

1. In this Act,

(h) “owner” includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

The amendment also repeals the definition of “pipe line” and “pipe line company” contained in clauses 1 (j) and (k) of the Act. These definitions are re-inserted in a later provision which deals specifically with the assessment of pipe lines.

Subsection 3. The amendment adds a definition of “tenant” to parallel the definition of that term contained in the *Assessment Act*. The amendment is consequential on the repeal of the definition of “owner” provided for in subsection (2) of this section. A definition of “Treasurer” is added for the purposes of the re-enacted section 27 of the Act as set out in section 14 of the Bill.

SECTION 2. The proposed amendment adds a paragraph exempting the real property of telephone and telegraph companies from provincial land tax as a result of the proposal contained in the Treasurer's Budget to impose a tax on the

gross receipts of these companies. The tax on gross receipts is provided for in section 7 of the Bill.

SECTION 3. The amendment provides that notices of assessment are to be sent to both the owner and tenant of land as is provided for in the *Assessment Act*.

Subsection 5 (2) of the Act now reads:

- (2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act and shall forthwith notify the owner of the land of the assessment or the amendment.*

SECTION 4. The amendment is consequential on the amendment made in section 3 of the Bill which provides that both the owner and tenant of land are to receive notices of assessment.

Section 6 of the Act now reads:

- 6. The collector shall keep a Provincial Land Tax Register in which shall be entered the name and address of every owner of land to which this Act applies, the amount of the assessment of the land and such other particulars as the collector deems requisite.*

SECTION 5. The amendment removes the requirement that new owners and tenants must notify the collector of their interest in the land and provides that the collector may request information by way of a form in order to determine tax liability under the Act.

Section 9 of the Act now reads:

- 9.—(1) Every person who becomes the owner of land situate in territory without municipal organization shall, within thirty days of becoming the owner of such land, notify the collector in writing giving his name and address, the name and address of the previous owner, a description of the land acquired, the purchase price paid where the land was purchased, or the rent paid where the land is rented, or the fee paid where the land is held under a licence.*
- (2) Upon the erection or the placing upon, in, over, under or the affixing to land situate in territory without municipal organization of any building, structure, machinery, fixture or other improvement, the owner shall forthwith notify the collector in writing thereof.*
- (3) The collector may at any time mail a form of return in the prescribed form to any owner of land to which this Act applies, and such owner shall complete and return it within thirty days from the date of mailing by the collector.*

SECTION 6. The amendment repeals the provisions relating to the assessment and taxation of pipe lines and provides that pipe lines will now be taxed at new rates which parallel those rates paid by pipe lines in municipalities.

Section 10 of the Act now reads:

- 10.—(1) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) Notwithstanding any other provision of this Act but subject to subsection (3), a pipe line shall be assessed for taxation purposes at the following rates:*

Size of Pipe				Assessment per Foot of Length
$\frac{3}{4}$ " . . . . .	Nominal inside diameter . . . . .			\$ .07
1" . . . . .	"	"	"	.09
$1\frac{1}{4}$ " . . . . .	"	"	"	.11
$1\frac{1}{2}$ " . . . . .	"	"	"	.13
2" and $2\frac{1}{2}$ " . . . . .	"	"	"	.17
3" . . . . .	"	"	"	.46
4" and $4\frac{1}{2}$ " . . . . .	"	"	"	.55
5" and $5\frac{5}{8}$ " . . . . .	"	"	"	.83
6" and $6\frac{5}{8}$ " . . . . .	"	"	"	.98
8" . . . . .	"	"	"	1.24
10" . . . . .	"	"	"	1.55
12" . . . . .	"	"	"	2.31

Size of Pipe				Assessment per Foot of Length
14" . . . . .	Outside diameter . . . . .			\$ 2.34
16" . . . . .	"	"	"	2.35
18" . . . . .	"	"	"	2.67
20" . . . . .	"	"	"	2.96
22" . . . . .	"	"	"	3.25
24" . . . . .	"	"	"	3.56
26" . . . . .	"	"	"	3.69
28" . . . . .	"	"	"	3.85
30" . . . . .	"	"	"	4.03
32" . . . . .	"	"	"	4.24
34" . . . . .	"	"	"	4.46
36" . . . . .	"	"	"	4.72



- (3) *A pipe line installed before 1940 shall be assessed for taxation at the rates set forth in subsection (2) but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.*
- (4) *A pipe line installed during or after 1940 shall be assessed for taxation at the rates set forth in subsection (2), with no allowance for depreciation.*
- (5) *A pipe line removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection (3) as though remaining in its original location.*
- (6) *A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned.*
- (7) *Where a pipe line is located on, in, under, along or across a highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section.*
- (8) *Where a pipe line is placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such pipe line shall be assessed as if half of it were situate entirely within the former and half of it were situate entirely within the latter.*
- (9) *Land that is liable to the tax under this Act shall not have a lesser or greater assessment by reason of there being a pipe line located on, in, under, along or across it, nor shall it have a lesser or greater assessment by reason of the abandonment of the pipe line.*

SECTION 7. The amendment repeals the provisions of the Act relating to the assessment and taxation of telegraph and telephone lines and equipment situate in territory without municipal organization and provides for a new annual tax of an amount equal to 5 per cent of the total gross receipts of telephone and telegraph companies resulting from business carried on in territory without municipal organization. The new provision parallels provisions relating to the assessment and taxation of telephone and telegraph companies in municipalities. Provisions are also added to allow any telegraph or telephone company taxed under this section to dispute the amount of tax imposed by bringing an application to the Supreme Court of Ontario.

Section 11 of the Act now reads:

- 11.—(1) *For the purpose of the tax under this Act, a telephone line or part thereof, or a telegraph line or part thereof, situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act and subject to subsections (3) and (6), a telephone line or part thereof shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$135 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use on such 31st day of December, at the rate of \$7.50 per mile.*

- (3) *Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, notwithstanding any other provision of this Act but subject to subsection (6), its telephone lines shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$50 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on such 31st day of December, at the rate of \$7.50 per mile.*
- (4) *In computing the length of telephone circuits placed or strung on poles or other structures or in conduits,*
- (a) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included; and*
  - (b) every circuit regardless of its length that connects two or more central exchange switchboards shall be included.*
- (5) *Notwithstanding any other provision of this Act but subject to subsection (6), a telegraph line or part thereof shall be assessed a sum equal to \$40 for every mile of length of one wire placed or strung on the poles or other structures or in conduits in use on the 31st day of December next preceding the year for which the tax is payable, and a sum equal to \$5 per mile for each additional wire so placed or strung on such 31st day of December.*
- (6) *Notwithstanding any other provision of this Act, the telephone and telegraph plant, poles and wires of a railway company that are used in whole or in part for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.*
- (7) *In the computation of the length of telegraph wires and additional wires, the wires of all branch and loop lines that do not exceed twenty-five miles shall not be included.*
- (8) *In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.*
- (9) *Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such poles, structures, conduits or wires shall be assessed as if half of them were situate entirely within the former and half of them were situate entirely within the latter.*
- (10) *Every telegraph and telephone company doing business in Ontario shall, in respect of its wires and circuits in territory without municipal organization, on or before the 1st day of March in each year, transmit to the collector a statement in writing showing,*
- (a) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organiza-*

*tion) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment; and*

*(b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment.*

SECTION 8. The amendment clarifies that Provincial Land Tax is to be payable by the owner of the land and not by the tenant.

Subsection 21 (1) of the Act now reads:

*(1) The tax under section 3 is payable annually at the appropriate prescribed rate upon the assessed value of the land.*

SECTION 9.—Subsection 1. The amendment incorporates a provision of the *Assessment Act* which defines “tenant” of Crown land.

Clause 22 (2) (c) of the Act now reads:

*(c) “tenant” includes any person who uses land belonging to the Crown, as or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use.*

Subsection 2. The amendment clarifies that any person who is assessed with respect to Crown land is liable to pay the taxes so assessed and that the interest of such person is subject to the special lien on land for taxes provided for in section 26 of the Act.

SECTION 10. The first amendment clarifies that the tax bill mailed under section 23 of the Act is applicable to only the land tax imposed under section 3 of the Act. The second amendment is consequential on the repeal of the definition of “owner” by section 1 of the Bill.

Subsection 23 (1) of the Act now reads:

*(1) Except as otherwise provided in this Act, the tax imposed by this Act shall be for the calendar year and becomes due and is payable on the 15th day of March in the year for which it is imposed, and a tax bill shall be mailed by the collector to every owner of land subject to taxation at his latest known address on or before the 15th day of February in the year for which the tax is payable.*

SECTION 11. The amendment increases from 5 to 10 per cent the penalty which is payable on unpaid tax and provides that the minimum penalty payable is \$6.

The amendment also provides that any unpaid tax and penalty will bear interest at a rate to be prescribed.

Section 24 of the Act now reads:

24. *Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 5 per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of April until the tax and penalty are paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax was payable and on each 1st day of April thereafter that the tax or any part thereof remains unpaid, and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.*

SECTION 12.—Subsections 1 to 4. The amendments contained in subsections (1) to (4) are consequential on the amendment provided for in section 5 of the Bill.

Subsection 5. the amendment is consequential on the amendment contained in section 11 of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent.

SECTION 13. The repeal of subsection 26 (2) is consequential on the amendment contained in section 9 of the Bill. The amendment also incorporates into the Act various tax collection remedies which are provided for in various other Ontario taxing statutes.

Subsection 26 (2) of the Act now reads:

- (2) *The owner or any person entered in the register as the owner of any land is personally liable for all tax, interest and penalties imposed by this Act in respect of such land, and the collector may bring an action in his name of office for the recovery thereof in any court of competent jurisdiction.*

SECTION 14. The amendment repeals section 27 of the Act which is redundant and enables the collector to collect unpaid tax by way of garnishment procedures.

The section to be repealed now reads:

27. *In addition to the collection of arrears of tax by action as hereinbefore provided, the collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation.*

SECTION 15. The amendment is consequential on amendments made in section 1 of the Bill.

Section 29 of the Act now reads:

29. *A tax bill shall be deemed to be delivered to an owner of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, agent or representative.*

SECTION 16. The amendment adds a provision enabling the collector to refund or pay taxes to a municipality where any part of the tax imposed on gross receipts of a telephone or telegraph company relate to telephones or other equipment situate on land that became part of a municipality in a year.



SECTION 17.—Subsection 1. The amendment clarifies that the remedy of forfeiture contained in the Act applies only where the land tax imposed by section 3 of the Act has been imposed and does not apply where a tax on gross receipts has been imposed.

Subsection 33 (1) of the Act now reads:

- (1) *Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the collector may cause to be filed on or before the 30th day of November in any year in the proper land registry office a caution in the prescribed form, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax, interest, penalties and costs due and payable under this Act is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister, and to the amount so due and payable there shall in every case be added and paid as costs the prescribed sum.*

Subsection 2. The amendment is consequential on the amendments made in section 1 of the Bill to the definitions of “owner” and “tenant”.

Subsection 33 (2) of the Act now reads:

- (2) *Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may send by registered mail a notice mentioned in subsection (1) to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be compliance with the provisions of subsection (1).*

Subsection 3. The amendment reflects amendments made to the *Registry Act* and the *Land Titles Act* which no longer require entries to be made in red ink.

SECTION 18. The amendment is consequential on the provision contained in section 1 of the Bill which repeals the definition of “owner”.

SECTION 19.—Subsections 1 and 2. The amendments make various housekeeping amendments and empower the Lieutenant Governor in Council to pass regulations defining any term under the Act, providing for the rate and payment of interest and exempting from the tax imposed on the gross receipts of the telephone and telegraph companies, those receipts resulting from business carried on on designated lands.

Subsection 3. The new subsection 38 (2) of the Act empowers the Minister to pass regulations prescribing any forms required under the Act. The new subsection 38 (3) of the Act provides that any regulation passed under the Act may be made retroactive.

SECTION 20. Provides that the sections of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent will become effective on April 1, 1983. All other provisions of the Bill will come into force on the 1st day of January, 1983.

BILL 113

1982

## An Act to amend the Provincial Land Tax Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (*c*) (vi) and (vii) of the *Provincial Land Tax Act*,<sup>s. 1 (*c*)  
(vi, vii),  
repealed</sup> being chapter 399 of the Revised Statutes of Ontario, 1980, are repealed.
- (2) Clauses 1 (*h*), (*j*) and (*k*) of the said Act are repealed.<sup>s. 1 (*h, j, k*),  
repealed</sup>
- (3) Section 1 of the said Act is amended by adding thereto the<sup>s. 1,  
amended</sup> following clauses:
  - (*p*) “tenant” includes an occupant and the person in possession other than the owner;
  - (*q*) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the<sup>s. 3 (1),  
amended</sup> following paragraph:
  19. All the machinery, plant and appliances, wherever<sup>Certain  
property of  
telephone and  
telegraph  
companies</sup> situate, and all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water so long as such machinery, plant, appliances or structures are used by any telephone or telegraph company in connection with and as part of the operations of its telephone or telegraph business.
3. Subsection 5 (2) of the said Act is repealed and the following<sup>s. 5 (2),  
re-enacted</sup> substituted therefor:
  - (2) The collector may at any time assess or amend the assess-<sup>Assessment  
or amendment  
of assessment</sup>ment of any land liable to assessment and taxation under this Act

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,  
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,  
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),  
re-enacted;  
s. 10 (4),  
repealed

- 6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans- Disputes  
mission pipe line shall, on the application of any interested party,  
be decided by the Ontario Energy Board and its decision is final.

(3) Notwithstanding any other provision of this Act, a pipe Assessment  
line shall be assessed for taxation purposes at the following rates: of pipe  
line

#### OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.45
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.70
3" . . . . .	" " " . . . . .	2.20
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.70
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	3.20
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	3.70
8" . . . . .	" " " . . . . .	5.90
10" . . . . .	" " " . . . . .	6.80
12" . . . . .	" " " . . . . .	8.55
14" . . . . .	Outside Diameter . . . . .	9.20
16" . . . . .	" " . . . . .	10.35
18" . . . . .	" " . . . . .	11.45
20" . . . . .	" " . . . . .	12.45
22" . . . . .	" " . . . . .	13.75
24" . . . . .	" " . . . . .	14.80
26" . . . . .	" " . . . . .	15.70
28" . . . . .	" " . . . . .	16.75
30" . . . . .	" " . . . . .	17.70
32" . . . . .	" " . . . . .	18.65
34" . . . . .	" " . . . . .	19.50
36" . . . . .	" " . . . . .	20.35
38" . . . . .	" " . . . . .	21.35

#### FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ .90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.09
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.31
3" . . . . .	" " " . . . . .	1.69
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.10
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	2.47
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	2.89
8" . . . . .	" " " . . . . .	4.65
10" . . . . .	" " " . . . . .	5.44
12" . . . . .	" " " . . . . .	6.90



## GAS TRANSMISSION PIPE LINE

3/4" to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
1 1/4" to 1 1/2" . . . . .	" " " " . . . . .	1.45
2" and 2 1/2" . . . . .	" " " " . . . . .	1.75
3" . . . . .	" " " " . . . . .	2.25
4" and 4 1/2" . . . . .	" " " " . . . . .	2.80
5" and 5 5/8" . . . . .	" " " " . . . . .	3.30
6" and 6 5/8" . . . . .	" " " " . . . . .	3.85
8" . . . . .	" " " " . . . . .	6.20
10" . . . . .	" " " " . . . . .	7.25
12" . . . . .	" " " " . . . . .	9.20
14" . . . . .	Outside Diameter . . . . .	10.00
16" . . . . .	" " " " . . . . .	11.40
18" . . . . .	" " " " . . . . .	12.75
20" . . . . .	" " " " . . . . .	14.00
22" . . . . .	" " " " . . . . .	15.65
24" . . . . .	" " " " . . . . .	17.00
26" . . . . .	" " " " . . . . .	18.25
28" . . . . .	" " " " . . . . .	19.70
30" . . . . .	" " " " . . . . .	21.10
32" . . . . .	" " " " . . . . .	22.50
34" . . . . .	" " " " . . . . .	23.80
36" . . . . .	" " " " . . . . .	25.15
38" . . . . .	" " " " . . . . .	26.70

s. 10,  
amended

- (2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of  
assessment  
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line  
deemed to  
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Review  
of rates

(12) The rates set out in subsection (3) shall be reviewed by the Minister in the year 1986 and every third year thereafter, and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3).

s. 11,  
re-enacted

7. Section 11 of the said Act is repealed and the following substituted therefor:

Returns by  
telegraph and  
telephone  
companies

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall,

on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportion-  
ment of  
gross  
receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What  
constitutes  
gross  
receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of  
tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

Tax bill

(6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.

Idem

(7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.

Collector  
not bound by  
statements

(8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of

Application  
to Supreme  
Court

Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action  
instituted

(9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service

(10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter  
deemed  
action

(11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1),  
amended

**8.** Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c),  
amended

**9.—**(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22,  
amended

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

Persons liable  
to tax

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26.

s. 23 (1),  
amended

**10.** Subsection 23 (1) of the said Act is amended by striking out "by this Act" in the second line and inserting in lieu thereof "under section 3" and by striking out "owner of land subject to taxation" in the fifth line and inserting in lieu thereof "person liable to pay such tax".

s. 24,  
re-enacted

**11.** Section 24 of the said Act is repealed and the following substituted therefor:

Penalty and  
interest on  
unpaid tax

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added

thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.

- 12.**—(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended
- (2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed
- (3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended
- (4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended
- (5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted
- (7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax
- 13.** Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted; s. 26 (3, 4), enacted
- (2) Upon default of payment of any tax payable under this Act, Recovery of tax
- (a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and



the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
to be proved  
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies  
for recovery  
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,  
re-enacted

**14.** Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Liability  
of debtor

(3) Every person who has discharged any liability to a person liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

Service on  
garnishee

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally. Garnishment of wages  
R.S.O. 1980,  
c. 526

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. Failure to remit

- 15.** Section 29 of the said Act is repealed and the following substituted therefor: s. 29,  
re-enacted

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

- 16.** Section 31 of the said Act is amended by adding thereto the following subsection: s. 31,  
amended

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year. Refunds of tax on gross receipts

- 17.—**(1) Subsection 33 (1) of the said Act is amended by inserting after "under" in the first line and in the eleventh line "section 3 of". s. 33 (1),  
amended

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor: s. 33 (2),  
re-enacted

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period Idem

of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),  
amended

- (3) Subsection 33 (8) of the said Act is amended by striking out "in red ink" in the fourth line.

s. 35,  
amended

- 18.** Section 35 of the said Act is amended by striking out "owner" in the first line and inserting in lieu thereof "person".

s. 38  
(a, d, e),  
re-enacted

- 19.—**(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(d) for the purposes of subsection 10 (12), amending the table of rates set out in subsection 10 (3);

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,  
amended

- (2) Section 38 of the said Act is amended by adding thereto the following clauses:

(h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;

(i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;

(j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

s. 38,  
amended

- (3) The said section 38 is further amended by adding thereto the following subsections:

Regulations  
by Minister

- (2) The Minister may make regulations,

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in

the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to Retroactivity a period before it was filed.

**20.**—(1) This Act, except section 11 and subsection 12 (5), comes into Commence-  
force on the 1st day of January, 1983. ment

(2) Section 11 and subsection 12 (5) come into force on the 1st Idem  
day of April, 1983.

**21.** The short title of this Act is the *Provincial Land Tax Amendment* Short title  
*Act, 1982.*







An Act to amend the  
Provincial Land Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. G. L. ASHE  
Minister of Revenue

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*(Government Bill)*

## BILL 113

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY  
2

An Act to amend the Provincial Land Tax Act

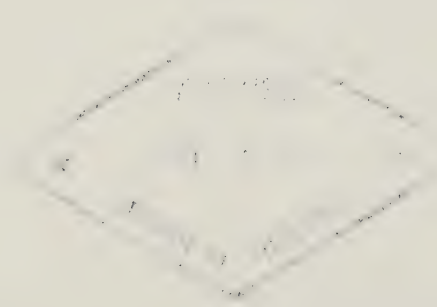
THE HON. G. L. ASHE  
Minister of Revenue

*(Reprinted as amended by the Committee of the Whole House)*



TORONTO

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## EXPLANATORY NOTES

GENERAL. The Bill implements the proposals in the Treasurer's Budget increasing the rate of provincial land tax payable on pipe lines situate in territory without municipal organization and also replaces the provincial land tax now imposed on land of a telephone or telegraph company situate in territory without municipal organization with a new annual tax of an amount equal to 5 per cent of the gross receipts of such companies from business carried on in territory without municipal organization.

The Bill also provides for various housekeeping and administrative provisions, many of which are made to parallel provisions contained in the *Assessment Act*.

SECTION 1.—Subsection 1. Amends the definition of “land” to parallel the definition of that term contained in the *Assessment Act*. The subclauses to be repealed now read as follows:

(c) “land” includes,

. . . . .

(vi) the interest in land of a tenant or occupant,

(vii) the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

Subsection 2. The amendment to repeal the definition of “owner” contained in clause 1 (h) of the Act is consequential on later amendments contained in the Bill which are made to parallel provisions contained in the *Assessment Act*, whereby both an owner and tenant of land receive notices of assessment but, only the owner receives a bill for tax. The definition of “owner” is replaced with a definition of “tenant” by subsection 1 (3) of the Bill.

Clause 1 (h) now reads as follows:

1. In this Act,

. . . . .

(h) “owner” includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there had been acquired from the Crown any right to be exercised in respect of, or over, or upon land.

The amendment also repeals the definition of “pipe line” and “pipe line company” contained in clauses 1 (j) and (k) of the Act. These definitions are re-inserted in a later provision which deals specifically with the assessment of pipe lines.

Subsection 3. The amendment adds a definition of “tenant” to parallel the definition of that term contained in the *Assessment Act*. The amendment is consequential on the repeal of the definition of “owner” provided for in subsection (2) of this section. A definition of “Treasurer” is added for the purposes of the re-enacted section 27 of the Act as set out in section 14 of the Bill.

SECTION 2. The proposed amendment adds a paragraph exempting the real property of telephone and telegraph companies from provincial land tax as a result of the proposal contained in the Treasurer's Budget to impose a tax on the

gross receipts of these companies. The tax on gross receipts is provided for in section 7 of the Bill.

SECTION 3. The amendment provides that notices of assessment are to be sent to both the owner and tenant of land as is provided for in the *Assessment Act*.

Subsection 5 (2) of the Act now reads:

- (2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act and shall forthwith notify the owner of the land of the assessment or the amendment.*

SECTION 4. The amendment is consequential on the amendment made in section 3 of the Bill which provides that both the owner and tenant of land are to receive notices of assessment.

Section 6 of the Act now reads:

- 6. The collector shall keep a Provincial Land Tax Register in which shall be entered the name and address of every owner of land to which this Act applies, the amount of the assessment of the land and such other particulars as the collector deems requisite.*

SECTION 5. The amendment removes the requirement that new owners and tenants must notify the collector of their interest in the land and provides that the collector may request information by way of a form in order to determine tax liability under the Act.

Section 9 of the Act now reads:

- 9.—(1) Every person who becomes the owner of land situate in territory without municipal organization shall, within thirty days of becoming the owner of such land, notify the collector in writing giving his name and address, the name and address of the previous owner, a description of the land acquired, the purchase price paid where the land was purchased, or the rent paid where the land is rented, or the fee paid where the land is held under a licence.*
- (2) Upon the erection or the placing upon, in, over, under or the affixing to land situate in territory without municipal organization of any building, structure, machinery, fixture or other improvement, the owner shall forthwith notify the collector in writing thereof.*
- (3) The collector may at any time mail a form of return in the prescribed form to any owner of land to which this Act applies, and such owner shall complete and return it within thirty days from the date of mailing by the collector.*

SECTION 6. The amendment repeals the provisions relating to the assessment and taxation of pipe lines and provides that pipe lines will now be taxed at new rates which parallel those rates paid by pipe lines in municipalities.

Section 10 of the Act now reads:

- 10.—(1) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) Notwithstanding any other provision of this Act but subject to subsection (3), a pipe line shall be assessed for taxation purposes at the following rates:*

Size of Pipe				Assessment per Foot of Length
$\frac{3}{4}$ " .....	Nominal inside diameter .....			\$ .07
1" .....	"	"	"	.09
$1\frac{1}{4}$ " .....	"	"	"	.11
$1\frac{1}{2}$ " .....	"	"	"	.13
2" and $2\frac{1}{2}$ " .....	"	"	"	.17
3" .....	"	"	"	.46
4" and $4\frac{1}{2}$ " .....	"	"	"	.55
5" and $5\frac{5}{8}$ " .....	"	"	"	.83
6" and $6\frac{5}{8}$ " .....	"	"	"	.98
8" .....	"	"	"	1.24
10" .....	"	"	"	1.55
12" .....	"	"	"	2.31

Size of Pipe				Assessment per Foot of Length
14" .....	Outside diameter .....			\$ 2.34
16" .....	"	"	"	2.35
18" .....	"	"	"	2.67
20" .....	"	"	"	2.96
22" .....	"	"	"	3.25
24" .....	"	"	"	3.56
26" .....	"	"	"	3.69
28" .....	"	"	"	3.85
30" .....	"	"	"	4.03
32" .....	"	"	"	4.24
34" .....	"	"	"	4.46
36" .....	"	"	"	4.72



- (3) *A pipe line installed before 1940 shall be assessed for taxation at the rates set forth in subsection (2) but shall be depreciated up to the year 1940 at the rate of 2 per cent per annum of the assessed value of the pipe line, with a maximum depreciation of 50 per cent.*
- (4) *A pipe line installed during or after 1940 shall be assessed for taxation at the rates set forth in subsection (2), with no allowance for depreciation.*
- (5) *A pipe line removed from one location and re-installed in another location shall, where depreciation is applicable, continue to be depreciated in accordance with subsection (3) as though remaining in its original location.*
- (6) *A pipe line that has been abandoned in any year ceases to be liable for the tax effective with the year next following the year in which the pipe line was abandoned.*
- (7) *Where a pipe line is located on, in, under, along or across a highway or any lands, other than lands held in trust for a band or body of Indians, exempt from taxation under this or any special or general Act, the pipe line is nevertheless liable to assessment and taxation in accordance with this section.*
- (8) *Where a pipe line is placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such pipe line shall be assessed as if half of it were situate entirely within the former and half of it were situate entirely within the latter.*
- (9) *Land that is liable to the tax under this Act shall not have a lesser or greater assessment by reason of there being a pipe line located on, in, under, along or across it, nor shall it have a lesser or greater assessment by reason of the abandonment of the pipe line.*

SECTION 7. The amendment repeals the provisions of the Act relating to the assessment and taxation of telegraph and telephone lines and equipment situate in territory without municipal organization and provides for a new annual tax of an amount equal to 5 per cent of the total gross receipts of telephone and telegraph companies resulting from business carried on in territory without municipal organization. The new provision parallels provisions relating to the assessment and taxation of telephone and telegraph companies in municipalities. Provisions are also added to allow any telegraph or telephone company taxed under this section to dispute the amount of tax imposed by bringing an application to the Supreme Court of Ontario.

Section 11 of the Act now reads:

- 11.—(1) *For the purpose of the tax under this Act, a telephone line or part thereof, or a telegraph line or part thereof, situate in territory without municipal organization shall be deemed to be land to which this Act applies.*
- (2) *Notwithstanding any other provision of this Act and subject to subsections (3) and (6), a telephone line or part thereof shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$135 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use on such 31st day of December, at the rate of \$7.50 per mile.*

- (3) *Where a telephone company does not operate generally throughout Ontario and is not authorized by statute to carry on business throughout Ontario, notwithstanding any other provision of this Act but subject to subsection (6), its telephone lines shall be assessed for one circuit used for carrying messages and placed or strung on poles or other structures or in conduits, including such poles, structures and conduits, and in use by the company on the 31st day of December next preceding the year for which the tax is payable, at the rate of \$50 per mile, and for each additional circuit placed or strung on such poles or other structures or in such conduits, whether or not in use by the company on such 31st day of December, at the rate of \$7.50 per mile.*
- (4) *In computing the length of telephone circuits placed or strung on poles or other structures or in conduits,*
- (a) a circuit that does not exceed twenty-five miles in length that is not used as a connecting circuit between two or more central exchange switchboards shall not be included; and*
  - (b) every circuit regardless of its length that connects two or more central exchange switchboards shall be included.*
- (5) *Notwithstanding any other provision of this Act but subject to subsection (6), a telegraph line or part thereof shall be assessed a sum equal to \$40 for every mile of length of one wire placed or strung on the poles or other structures or in conduits in use on the 31st day of December next preceding the year for which the tax is payable, and a sum equal to \$5 per mile for each additional wire so placed or strung on such 31st day of December.*
- (6) *Notwithstanding any other provision of this Act, the telephone and telegraph plant, poles and wires of a railway company that are used in whole or in part for commercial purposes shall be assessed at \$5 per mile in the manner hereinbefore mentioned.*
- (7) *In the computation of the length of telegraph wires and additional wires, the wires of all branch and loop lines that do not exceed twenty-five miles shall not be included.*
- (8) *In the measurement of such additional wires or circuits, the length of every telegraph wire and every telephone circuit placed or strung in cables or other combinations, and used or capable of being used as an independent means of conveying messages, shall be computed.*
- (9) *Where the poles, structures, conduits or wires of a telegraph or telephone company are placed on the boundary between land situate in territory without municipal organization and land situate in territory with municipal organization, or so near thereto as to be in some places on one side and in other places on the other side of the boundary line, such poles, structures, conduits or wires shall be assessed as if half of them were situate entirely within the former and half of them were situate entirely within the latter.*
- (10) *Every telegraph and telephone company doing business in Ontario shall, in respect of its wires and circuits in territory without municipal organization, on or before the 1st day of March in each year, transmit to the collector a statement in writing showing,*
- (a) the length in miles of one wire or of one circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organiza-*

*tion) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment; and*

- (b) the length in miles of one exempt wire or of one exempt circuit, as the case may be, placed or strung on poles or other structures or in conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) in use by the company in such townships on the 31st day of December next preceding the assessment, and the length in miles of additional exempt wires or circuits, as the case may be, placed or strung on such poles or other structures or in such conduits (including half on the boundaries of townships without municipal organization that adjoin townships with municipal organization) whether or not in use by the company in such townships on the 31st day of December next preceding the assessment.*

SECTION 8. The amendment clarifies that Provincial Land Tax is to be payable by the owner of the land and not by the tenant.

Subsection 21 (1) of the Act now reads:

- (1) The tax under section 3 is payable annually at the appropriate prescribed rate upon the assessed value of the land.*

SECTION 9.—Subsection 1. The amendment incorporates a provision of the *Assessment Act* which defines “tenant” of Crown land.

Clause 22 (2) (c) of the Act now reads:

- (c) “tenant” includes any person who uses land belonging to the Crown, as or for the purposes of, or in connection with, his residence, irrespective of the relationship between him and the Crown with respect to such use.*

Subsection 2. The amendment clarifies that any person who is assessed with respect to Crown land is liable to pay the taxes so assessed and that the interest of such person is subject to the special lien on land for taxes provided for in section 26 of the Act.

SECTION 10. The first amendment clarifies that the tax bill mailed under section 23 of the Act is applicable to only the land tax imposed under section 3 of the Act. The second amendment is consequential on the repeal of the definition of “owner” by section 1 of the Bill.

Subsection 23 (1) of the Act now reads:

- (1) Except as otherwise provided in this Act, the tax imposed by this Act shall be for the calendar year and becomes due and is payable on the 15th day of March in the year for which it is imposed, and a tax bill shall be mailed by the collector to every owner of land subject to taxation at his latest known address on or before the 15th day of February in the year for which the tax is payable.*

SECTION 11. The amendment increases from 5 to 10 per cent the penalty which is payable on unpaid tax and provides that the minimum penalty payable is \$6.

The amendment also provides that any unpaid tax and penalty will bear interest at a rate to be prescribed.

Section 24 of the Act now reads:

24. *Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 5 per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of 6 per cent per annum from such 1st day of April until the tax and penalty are paid, which interest shall be compounded annually on the 1st day of April of the year next following the date on which the tax was payable and on each 1st day of April thereafter that the tax or any part thereof remains unpaid, and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act.*

SECTION 12.—Subsections 1 to 4. The amendments contained in subsections (1) to (4) are consequential on the amendment provided for in section 5 of the Bill.

Subsection 5. the amendment is consequential on the amendment contained in section 11 of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent.

SECTION 13. The repeal of subsection 26 (2) is consequential on the amendment contained in section 9 of the Bill. The amendment also incorporates into the Act various tax collection remedies which are provided for in various other Ontario taxing statutes.

Subsection 26 (2) of the Act now reads:

- (2) *The owner or any person entered in the register as the owner of any land is personally liable for all tax, interest and penalties imposed by this Act in respect of such land, and the collector may bring an action in his name of office for the recovery thereof in any court of competent jurisdiction.*

SECTION 14. The amendment repeals section 27 of the Act which is redundant and enables the collector to collect unpaid tax by way of garnishment procedures.

The section to be repealed now reads:

27. *In addition to the collection of arrears of tax by action as hereinbefore provided, the collector may distrain for the same and has the like powers in that regard as a collector of taxes for a municipal corporation.*

SECTION 15. The amendment is consequential on amendments made in section 1 of the Bill.

Section 29 of the Act now reads:

29. *A tax bill shall be deemed to be delivered to an owner of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, agent or representative.*

SECTION 16. The amendment adds a provision enabling the collector to refund or pay taxes to a municipality where any part of the tax imposed on gross receipts of a telephone or telegraph company relate to telephones or other equipment situate on land that became part of a municipality in a year.



SECTION 17.—Subsection 1. The amendment clarifies that the remedy of forfeiture contained in the Act applies only where the land tax imposed by section 3 of the Act has been imposed and does not apply where a tax on gross receipts has been imposed.

Subsection 33 (1) of the Act now reads:

- (1) *Where any part of the tax imposed under this Act remains unpaid for a period of two years or more, the collector may cause to be filed on or before the 30th day of November in any year in the proper land registry office a caution in the prescribed form, and thereupon he shall cause to be sent by registered mail a notice to the person appearing from search or inquiry at the proper land registry office to be the owner of the land in respect of which the default has been made and to every person appearing from such search or inquiry to have an interest therein, stating that, unless the total amount of tax, interest, penalties and costs due and payable under this Act is paid on or before the 30th day of November in the year next following, the land and every interest therein will be liable to be forfeited to and to be vested in the Crown on the 1st day of December in the last-mentioned year by a certificate under the hand of the Minister or the Deputy Minister, and to the amount so due and payable there shall in every case be added and paid as costs the prescribed sum.*

Subsection 2. The amendment is consequential on the amendments made in section 1 of the Bill to the definitions of “owner” and “tenant”.

Subsection 33 (2) of the Act now reads:

- (2) *Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may send by registered mail a notice mentioned in subsection (1) to the person entered in the register as the owner of the land, and the sending of such notice shall be deemed to be compliance with the provisions of subsection (1).*

Subsection 3. The amendment reflects amendments made to the *Registry Act* and the *Land Titles Act* which no longer require entries to be made in red ink.

SECTION 18. The amendment is consequential on the provision contained in section 1 of the Bill which repeals the definition of “owner”.

SECTION 19.—Subsections 1 and 2. The amendments make various housekeeping amendments and empower the Lieutenant Governor in Council to pass regulations defining any term under the Act, providing for the rate and payment of interest and exempting from the tax imposed on the gross receipts of the telephone and telegraph companies, those receipts resulting from business carried on on designated lands.

Subsection 3. The new subsection 38 (2) of the Act empowers the Minister to pass regulations prescribing any forms required under the Act. The new subsection 38 (3) of the Act provides that any regulation passed under the Act may be made retroactive.

SECTION 20. Provides that the sections of the Bill increasing the penalty on unpaid tax from 5 to 10 per cent will become effective on April 1, 1983. All other provisions of the Bill will come into force on the 1st day of January, 1983.

BILL 113

1982

## An Act to amend the Provincial Land Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, s. 1 (c) (vi, vii), repealed being chapter 399 of the Revised Statutes of Ontario, 1980, are repealed.
- (2) Clauses 1 (h), (j) and (k) of the said Act are repealed. s. 1 (h, j, k), repealed
- (3) Section 1 of the said Act is amended by adding thereto the following clauses: s. 1, amended
  - (p) “tenant” includes an occupant and the person in possession other than the owner;
  - (q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the following paragraph: s. 3 (1), amended
  19. All the machinery, plant and appliances, wherever situate, and all structures placed on, over, under or affixed to any highway, lane or other public communication, public place or water so long as such machinery, plant, appliances or structures are used by any telephone or telegraph company in connection with and as part of the operations of its telephone or telegraph business. Certain property of telephone and telegraph companies
3. Subsection 5 (2) of the said Act is repealed and the following substituted therefor: s. 5 (2), re-enacted
  - (2) The collector may at any time assess or amend the assessment of any land liable to assessment and taxation under this Act Assessment or amendment of assessment

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,  
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,  
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),  
re-enacted;  
s. 10 (4),  
repealed

- 6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans- mission pipe line shall, on the application of any interested party, be decided by the Ontario Energy Board and its decision is final. Disputes

(3) Notwithstanding any other provision of this Act, a pipe line shall be assessed for taxation purposes at the following rates: Assessment of pipe line

#### OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.45
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.70
3" . . . . .	" " " . . . . .	2.20
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.70
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	3.20
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	3.70
8" . . . . .	" " " . . . . .	5.90
10" . . . . .	" " " . . . . .	6.80
12" . . . . .	" " " . . . . .	8.55
14" . . . . .	Outside Diameter . . . . .	9.20
16" . . . . .	" " . . . . .	10.35
18" . . . . .	" " . . . . .	11.45
20" . . . . .	" " . . . . .	12.45
22" . . . . .	" " . . . . .	13.75
24" . . . . .	" " . . . . .	14.80
26" . . . . .	" " . . . . .	15.70
28" . . . . .	" " . . . . .	16.75
30" . . . . .	" " . . . . .	17.70
32" . . . . .	" " . . . . .	18.65
34" . . . . .	" " . . . . .	19.50
36" . . . . .	" " . . . . .	20.35
38" . . . . .	" " . . . . .	21.35

#### FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ .90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.09
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.31
3" . . . . .	" " " . . . . .	1.69
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.10
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	2.47
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	2.89
8" . . . . .	" " " . . . . .	4.65
10" . . . . .	" " " . . . . .	5.44
12" . . . . .	" " " . . . . .	6.90



## GAS TRANSMISSION PIPE LINE

3/4" to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
1 1/4" to 1 1/2" . . . . .	" " " " . . . . .	1.45
2" and 2 1/2" . . . . .	" " " " . . . . .	1.75
3" . . . . .	" " " " . . . . .	2.25
4" and 4 1/2" . . . . .	" " " " . . . . .	2.80
5" and 5 5/8" . . . . .	" " " " . . . . .	3.30
6" and 6 5/8" . . . . .	" " " " . . . . .	3.85
8" . . . . .	" " " " . . . . .	6.20
10" . . . . .	" " " " . . . . .	7.25
12" . . . . .	" " " " . . . . .	9.20
14" . . . . .	Outside Diameter . . . . .	10.00
16" . . . . .	" " . . . . .	11.40
18" . . . . .	" " . . . . .	12.75
20" . . . . .	" " . . . . .	14.00
22" . . . . .	" " . . . . .	15.65
24" . . . . .	" " . . . . .	17.00
26" . . . . .	" " . . . . .	18.25
28" . . . . .	" " . . . . .	19.70
30" . . . . .	" " . . . . .	21.10
32" . . . . .	" " . . . . .	22.50
34" . . . . .	" " . . . . .	23.80
36" . . . . .	" " . . . . .	25.15
38" . . . . .	" " . . . . .	26.70
42" . . . . .	" " . . . . .	29.50

s. 10,  
amended

(2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of  
assessment  
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line  
deemed to  
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Depreciation  
of pipe  
lines

(12) A pipe line installed before 1970 shall be assessed for taxation at the rates set forth in subsection (3) but shall be depreciated up to the year 1970 at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent, and no allowance of depreciation shall be made with respect to a pipe line that is installed during or after 1970.

Review of  
rates, etc.

(13) The rates set out in subsection (3) and the year up to which depreciation is allowed set out in subsection (12) shall be

reviewed by the Minister in 1986 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3) or change the year up to which depreciation is allowed set out in subsection (12).

(14) Notwithstanding any provision of this section to the contrary, the Lieutenant Governor in Council may, where two or more pipe lines occupy the same right-of-way, by regulation, designate the second and subsequent pipe lines and, by regulation, prescribe the percentage of the rates set out in subsection (3) at which the second and subsequent pipe lines are assessable and taxable and the percentages of rates as so prescribed shall apply until such percentages of rates are altered.

Where two or more pipe lines occupy same right-of-way

**7. Section 11 of the said Act is repealed and the following substituted therefor:**

s. 11,  
re-enacted

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall, on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

Returns by telegraph and telephone companies

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in

the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

Idem (6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.

Collector not bound by statements (7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.

Application to Supreme Court (8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action instituted (9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service (10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter deemed action (11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1), amended **8.** Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c), amended **9.—**(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22, amended (2) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26. Persons liable to tax

**10.** Subsection 23 (1) of the said Act is amended by striking out “by this Act” in the second line and inserting in lieu thereof “under section 3” and by striking out “owner of land subject to taxation” in the fifth line and inserting in lieu thereof “person liable to pay such tax”. s. 23 (1), amended

**11.** Section 24 of the said Act is repealed and the following substituted therefor: s. 24, re-enacted

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**12.—**(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended

(2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed

(3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended

(4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended

(5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**13.** Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted;  
s. 26 (3, 4), enacted



Recovery  
of tax

(2) Upon default of payment of any tax payable under this Act,

- (a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
to be proved  
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies  
for recovery  
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,  
re-enacted

**14.** Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person <sup>Liability of debtor</sup> liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser.

(4) Where a person who is or is about to become indebted or <sup>Service on garnishee</sup> liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(5) Where the persons who are or are about to become in- <sup>Idem</sup> debted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act <sup>Garnishment of wages  
R.S.O. 1980,  
c. 526</sup> moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally.

(7) Where any person, without reasonable excuse, has failed <sup>Failure to remit</sup> to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit.

**15.** Section 29 of the said Act is repealed and the following substituted <sup>s. 29,  
re-enacted</sup> therefor:

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. <sup>Delivery of tax bills</sup>

**16.** Section 31 of the said Act is amended by adding thereto the following subsection: <sup>s. 31,  
amended</sup>

Refunds of  
tax on gross  
receipts

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year.

s. 33 (1),  
amended

**17.**—(1) Subsection 33 (1) of the said Act is amended by inserting after “under” in the first line and in the eleventh line “section 3 of”.

s. 33 (2),  
re-enacted

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),  
amended

(3) Subsection 33 (8) of the said Act is amended by striking out “in red ink” in the fourth line.

s. 35,  
amended

**18.** Section 35 of the said Act is amended by striking out “owner” in the first line and inserting in lieu thereof “person”.

s. 38  
(a, d, e),  
re-enacted

**19.**—(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(d) for the purposes of subsection 10 (13), amending the table of rates set out in subsection 10 (3) and changing the year up to which depreciation shall be allowed set out in subsection 10 (12);

(da) for the purposes of subsection 10 (14), designating second and subsequent pipe lines and prescribing the percentage of the rates set out in subsection 10 (3) at which second and subsequent pipe lines shall be assessed and taxed;

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,  
amended

(2) Section 38 of the said Act is amended by adding thereto the following clauses:

(h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;

(i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;

(j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

(3) The said section 38 is further amended by adding thereto the following subsections: s. 38,  
amended

(2) The Minister may make regulations,

Regulations  
by Minister

(a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;

(b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. Retroactivity

**20.**—(1) This Act, except section 11 and subsection 12 (5), comes into force on the 1st day of January, 1983. Commence-  
ment

(2) Section 11 and subsection 12 (5) come into force on the 1st day of April, 1983. Idem

**21.** The short title of this Act is the *Provincial Land Tax Amendment Act, 1982*. Short title







An Act to amend the  
Provincial Land Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

June 22nd, 1982

*3rd Reading*

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THE HON. G. L. ASHE  
Minister of Revenue

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*(Reprinted as amended by the  
Committee of the Whole House)*

BILL 113

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Provincial Land Tax Act

THE HON. G. L. ASHE  
Minister of Revenue



TORONTO

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BILL 113

1982

## An Act to amend the Provincial Land Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subclauses 1 (c) (vi) and (vii) of the *Provincial Land Tax Act*, <sup>s. 1 (c)</sup> being chapter 399 of the Revised Statutes of Ontario, 1980, <sup>(vi, vii),</sup> are repealed.
- (2) Clauses 1 (h), (j) and (k) of the said Act are repealed. <sup>s. 1 (h, j, k),</sup>  
<sup>repealed</sup>
- (3) Section 1 of the said Act is amended by adding thereto the <sup>s. 1,</sup> following clauses: <sup>amended</sup>
  - (p) “tenant” includes an occupant and the person in possession other than the owner;
  - (q) “Treasurer” mean the Treasurer of Ontario and Minister of Economics.
2. Subsection 3 (1) of the said Act is amended by adding thereto the <sup>s. 3 (1),</sup> following paragraph: <sup>amended</sup>
  19. All the machinery, plant and appliances, wherever <sup>Certain</sup> situate, and all structures placed on, over, under or <sup>property of</sup> affixed to any highway, lane or other public communi- <sup>telephone and</sup> cation, public place or water so long as such machinery, <sup>telegraph</sup> plant, appliances or structures are used by any tele- <sup>companies</sup> phone or telegraph company in connection with and as part of the operations of its telephone or telegraph business.
3. Subsection 5 (2) of the said Act is repealed and the following <sup>s. 5 (2),</sup> substituted therefor: <sup>re-enacted</sup>
  - (2) The collector may at any time assess or amend the assess- <sup>Assessment</sup> ment of any land liable to assessment and taxation under this Act <sup>or amendment</sup> of assessment

and, subject to section 22, such land shall be assessed against the owner thereof and against the tenant to the extent of the assessed value of the portion of the land occupied by the tenant, and the collector shall forthwith notify the owner and the tenant of such land of the assessment or the amendment.

s. 6,  
amended

4. Section 6 of the said Act is amended by inserting after "owner" in the third line "and tenant".

s. 9,  
re-enacted

5. Section 9 of the said Act is repealed and the following substituted therefor:

Return

9. The collector may at any time mail a form of return in a form prescribed by the Minister to any person to whom this Act applies in order to determine liability to tax under this Act, and such person shall complete and return it within thirty days from the date of mailing by the collector.

s. 10 (1-3),  
re-enacted;  
s. 10 (4),  
repealed

- 6.—(1) Subsections 10 (1), (2), (3) and (4) of the said Act are repealed and the following substituted therefor:

Interpretation

- (1) In this section,

(a) "gas" means natural gas, manufactured gas or propane or any mixture of any of them;

(b) "oil" means crude oil or liquid hydrocarbons or any product or by-product thereof;

(c) "pipe line" means, subject to subsection (3), a pipe line for the transportation or transmission of gas that is designated by the owner as a transmission pipe line and a pipe line for the transportation or transmission of oil, and includes,

(i) all valves, couplings, cathodic protection apparatus, protective coatings and casings,

(ii) all haulage, labour, engineering and overheads in respect of such pipe line,

(iii) any section, part or branch of any pipe line,

(iv) any easement or right of way used by a pipe line company, and

(v) any franchise or franchise right,

but does not include a pipe line or lines situate wholly within an oil refinery, oil storage depot, oil bulk plant or oil pipe line terminal;

(d) "pipe line company" means every person, firm, partnership, association or corporation owning or operating a pipe line all or any part of which is situate in Ontario.

(2) All disputes as to whether or not a gas pipe line is a trans- Disputes  
mission pipe line shall, on the application of any interested party,  
be decided by the Ontario Energy Board and its decision is final.

(3) Notwithstanding any other provision of this Act, a pipe Assessment  
line shall be assessed for taxation purposes at the following rates: of pipe  
line

#### OIL TRANSMISSION PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.45
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.70
3" . . . . .	" " " . . . . .	2.20
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.70
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	3.20
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	3.70
8" . . . . .	" " " . . . . .	5.90
10" . . . . .	" " " . . . . .	6.80
12" . . . . .	" " " . . . . .	8.55
14" . . . . .	Outside Diameter . . . . .	9.20
16" . . . . .	" " . . . . .	10.35
18" . . . . .	" " . . . . .	11.45
20" . . . . .	" " . . . . .	12.45
22" . . . . .	" " . . . . .	13.75
24" . . . . .	" " . . . . .	14.80
26" . . . . .	" " . . . . .	15.70
28" . . . . .	" " . . . . .	16.75
30" . . . . .	" " . . . . .	17.70
32" . . . . .	" " . . . . .	18.65
34" . . . . .	" " . . . . .	19.50
36" . . . . .	" " . . . . .	20.35
38" . . . . .	" " . . . . .	21.35

#### FIELD AND GATHERING PIPE LINE

Size of Pipe		Assessment per Foot of Length
$\frac{3}{4}$ " to 1" . . . . .	Nominal Inside Diameter . . . . .	\$ .90
$1\frac{1}{4}$ " to $1\frac{1}{2}$ " . . . . .	" " " . . . . .	1.09
2" and $2\frac{1}{2}$ " . . . . .	" " " . . . . .	1.31
3" . . . . .	" " " . . . . .	1.69
4" and $4\frac{1}{2}$ " . . . . .	" " " . . . . .	2.10
5" and $5\frac{5}{8}$ " . . . . .	" " " . . . . .	2.47
6" and $6\frac{5}{8}$ " . . . . .	" " " . . . . .	2.89
8" . . . . .	" " " . . . . .	4.65
10" . . . . .	" " " . . . . .	5.44
12" . . . . .	" " " . . . . .	6.90



## GAS TRANSMISSION PIPE LINE

3/4" to 1" . . . .	Nominal Inside Diameter . . . . .	\$ 1.20
1 1/4" to 1 1/2" . . . .	" " " . . . . .	1.45
2" and 2 1/2" . . . .	" " " . . . . .	1.75
3" . . . . .	" " " . . . . .	2.25
4" and 4 1/2" . . . .	" " " . . . . .	2.80
5" and 5 5/8" . . . .	" " " . . . . .	3.30
6" and 6 5/8" . . . .	" " " . . . . .	3.85
8" . . . . .	" " " . . . . .	6.20
10" . . . . .	" " " . . . . .	7.25
12" . . . . .	" " " . . . . .	9.20
14" . . . . .	Outside Diameter . . . . .	10.00
16" . . . . .	" " " . . . . .	11.40
18" . . . . .	" " " . . . . .	12.75
20" . . . . .	" " " . . . . .	14.00
22" . . . . .	" " " . . . . .	15.65
24" . . . . .	" " " . . . . .	17.00
26" . . . . .	" " " . . . . .	18.25
28" . . . . .	" " " . . . . .	19.70
30" . . . . .	" " " . . . . .	21.10
32" . . . . .	" " " . . . . .	22.50
34" . . . . .	" " " . . . . .	23.80
36" . . . . .	" " " . . . . .	25.15
38" . . . . .	" " " . . . . .	26.70
42" . . . . .	" " " . . . . .	29.50

s. 10,  
amended

- (2) Section 10 of the said Act is amended by adding thereto the following subsections:

Reduction of  
assessment  
on pipe line

(10) Where a pipe line has been constructed and used for the transportation of oil or gas and ceases to be so used by reason of an order or regulation of an authority having jurisdiction in that behalf, other than the taxing authority, and an application to the proper authority for permission to abandon such pipe line has been refused, the assessment of such pipe line shall be reduced by 20 per cent so long as it is not used for the transportation of oil or gas.

Pipe line  
deemed to  
be land

(11) For the purpose of the tax under this Act, a pipe line or any part thereof situate in territory without municipal organization shall be deemed to be land to which this Act applies.

Depreciation  
of pipe  
lines

(12) A pipe line installed before 1970 shall be assessed for taxation at the rates set forth in subsection (3) but shall be depreciated up to the year 1970 at the rate of 5 per cent of the assessed value of the pipe line every three years from the year of installation, with a maximum depreciation of 55 per cent, and no allowance of depreciation shall be made with respect to a pipe line that is installed during or after 1970.

Review of  
rates, etc.

(13) The rates set out in subsection (3) and the year up to which depreciation is allowed set out in subsection (12) shall be

reviewed by the Minister in 1986 and every third year thereafter and in any such year the Lieutenant Governor in Council may by regulation amend or re-enact the table of rates set out in subsection (3) or change the year up to which depreciation is allowed set out in subsection (12).

(14) Notwithstanding any provision of this section to the contrary, the Lieutenant Governor in Council may, where two or more pipe lines occupy the same right-of-way, by regulation, designate the second and subsequent pipe lines and, by regulation, prescribe the percentage of the rates set out in subsection (3) at which the second and subsequent pipe lines are assessable and taxable and the percentages of rates as so prescribed shall apply until such percentages of rates are altered.

Where two or more pipe lines occupy same right-of-way

7. Section 11 of the said Act is repealed and the following substituted therefor: s. 11, re-enacted

11.—(1) Every telegraph and telephone company doing business in Ontario in territory without municipal organization shall, on or before the 1st day of March in each year, transmit to the collector a statement in writing of the amount of the gross receipts of the company from the business it carries on in such territory without municipal organization for the next preceding year ending on the 31st day of December.

Returns by telegraph and telephone companies

(2) In determining the amount of the gross receipts of a telephone company in territory without municipal organization under subsection (1), a telephone company shall apportion the total gross receipts of the company in all of Ontario to territory without municipal organization in the proportion that the number of telephones connected to the company's system in territory without municipal organization bears to the total number of telephones connected to the company's system in all of Ontario as of the 31st day of December of the year in respect of which the statement is transmitted.

Apportionment of gross receipts

(3) For the purposes of subsection (1), gross receipts of a telephone company shall be the total of regularly recurring revenue arising from telephones and other equipment and shall include revenue from long distance calls.

What constitutes gross receipts

(4) In each year there is payable by every telegraph and telephone company that is required to file a statement under subsection (1), an annual tax of an amount equal to 5 per cent of the total gross receipts that are required to be shown by the company in the statement to be transmitted by it for that year under subsection (1).

Rate of tax

(5) The tax levied under this section shall be for the calendar year and becomes due and is payable on the 31st day of March in

the year in which it is imposed, and a bill for the amount imposed shall be mailed by the collector to the head office of every telegraph and telephone company subject to the tax under this section or to such other address as the company has directed in writing to the collector, on or before the 15th day of March in the year in which the tax is payable.

Idem

(6) The bill shall show the amount of the gross receipts upon which the tax is imposed, the rate of the tax imposed, the amount of tax payable and such other information as may be prescribed.

Collector  
not bound by  
statements

(7) The collector is not bound by a statement delivered under this section by any telephone or telegraph company and may, notwithstanding a statement so delivered, or if no statement has been delivered as required, determine the tax payable under this section by the company.

Application  
to Supreme  
Court

(8) Where any person taxed under this section disputes the amount of tax billed, he may apply to the Supreme Court of Ontario for a determination of the proper amount of tax payable, but no application under this section shall be instituted after the expiration of ninety days from the day the tax bill provided for under this section has been mailed.

How action  
instituted

(9) An application to the Supreme Court shall be instituted by serving on the Minister and the collector a notice of motion which is returnable not sooner than sixty days from the date of such service and by filing a copy thereof with the Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office.

Service

(10) The notice of motion shall be served on the Minister and on the collector being sent by registered mail addressed to each or by personal service.

Matter  
deemed  
action

(11) Upon the filing of the notice of motion with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the taxpayer has its head office, the matter shall be deemed to be an action in the court.

s. 21 (1),  
amended

8. Subsection 21 (1) of the said Act is amended by adding at the end thereof "by the owner of such land".

s. 22 (2) (c),  
amended

9.—(1) Clause 22 (2) (c) of the said Act is amended by inserting after "tenant" in the first line "in addition to its meaning under section 1,".

s. 22,  
amended

(2) Section 22 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection 21 (1), every person assessed under this section is liable to pay the taxes assessed against him and in addition, the interest in such land, if any, of every person other than the Crown is subject to the special lien on land for taxes provided for in section 26. Persons liable to tax

**10.** Subsection 23 (1) of the said Act is amended by striking out “by this Act” in the second line and inserting in lieu thereof “under section 3” and by striking out “owner of land subject to taxation” in the fifth line and inserting in lieu thereof “person liable to pay such tax”. s. 23 (1), amended

**11.** Section 24 of the said Act is repealed and the following substituted therefor: s. 24, re-enacted

24. Except as otherwise provided in this Act, where any tax under this Act remains unpaid on the 1st day of April in the year for which it is payable, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax and penalty shall bear interest at such rate as is prescribed from the 1st day of April until the tax and penalty are paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**12.—**(1) Subsection 25 (3) of the said Act is amended by striking out “notwithstanding the receipt of a notice under section 9” in the second line. s. 25 (3), amended

(2) Subsection 25 (4) of the said Act is repealed. s. 25 (4), repealed

(3) Subsection 25 (5) of the said Act is amended by striking out “or (4)” in the second line. s. 25 (5), amended

(4) Subsection 25 (6) of the said Act is amended by striking out “(2), (3) or (4)” in the second line and inserting in lieu thereof “(2) or (3)”. s. 25 (6), amended

(5) Subsection 25 (7) of the said Act is repealed and the following substituted therefor: s. 25 (7), re-enacted

(7) Where any tax or arrears of tax billed under subsection (6) remains unpaid after the due date, a penalty of 10 per cent shall be added thereto, but such penalty shall not in any case be less than \$6 and in addition such tax or arrears of tax and penalty shall bear interest at such rate as is prescribed from the due date until paid and for all purposes the amount of such tax, arrears of tax, penalty and interest shall be deemed to be tax due and payable under this Act. Penalty and interest on unpaid tax

**13.** Subsection 26 (2) of the said Act is repealed and the following substituted therefor: s. 26 (2), re-enacted;  
s. 26 (3, 4), enacted



Recovery  
of tax

(2) Upon default of payment of any tax payable under this Act,

- (a) the collector may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in the name of office of the collector and may be continued by his successor in office as if no change had occurred and shall be tried without a jury; and
- (b) the collector may issue a warrant directed to the sheriff of the district in which any property of a person liable to pay any tax under this Act is located or situate for the amount of the tax owing by him, together with interest thereon from the date of the issue of the warrant and the costs and expenses of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court.

Compliance  
to be proved  
by affidavit

(3) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the collector with this Act as well as the failure of any person to comply with the requirements of this Act shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proved in any court of law by affidavit of the Minister or of any officer of the Ministry.

Remedies  
for recovery  
of tax

(4) The use of any of the remedies provided by this section, or section 27 or 33, does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery and enforcement of the payment of any tax imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or at law in favour of the Crown.

s. 27,  
re-enacted

**14.** Section 27 of the said Act is repealed and the following substituted therefor:

Garnishment

27.—(1) When the collector has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a person liable to pay any tax under this Act, he may, by registered letter or by a letter served personally, require the first-named person to pay the moneys otherwise payable to the second-named person in whole or in part to the Treasurer on account of the liability under this Act.

Idem

(2) The receipt of the Treasurer for moneys paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

(3) Every person who has discharged any liability to a person liable to pay any tax under this Act without complying with the requirements under this section is liable to pay to the Treasurer an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer, whichever is the lesser. Liability of debtor

(4) Where a person who is or is about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection (1) may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. Service on garnishee

(5) Where the persons who are or are about to become indebted or liable to make a payment to a person liable to pay any tax under this Act carry on business in partnership, the registered or other letter under subsection (1) may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. Idem

(6) Subject to the provisions of the *Wages Act*, where the collector has under this section required an employer to pay to the Treasurer on account of an employee's liability under this Act moneys otherwise payable by the employer to the employee as remuneration, the requirement is applicable to all future payments by the employer to the employee in respect of remuneration until the liability under this Act is satisfied and operates to require payments to the Treasurer out of each payment of remuneration of such amount as may be stipulated by the collector in the registered letter or letter served personally. Garnishment of wages  
R.S.O. 1980,  
c. 526

(7) Where any person, without reasonable excuse, has failed to remit to the Treasurer the moneys as required under this section, the collector may apply before a judge of the Supreme Court for an order directing such person to remit the moneys which he has failed to remit. Failure to remit

**15.** Section 29 of the said Act is repealed and the following substituted therefor: s. 29,  
re-enacted

29. A tax bill shall be deemed to be delivered to an owner or tenant of land to which this Act applies or to his agent or representative where it is mailed post paid to the latest known address of such owner, tenant, agent or representative. Delivery of tax bills

**16.** Section 31 of the said Act is amended by adding thereto the following subsection: s. 31,  
amended

Refunds of  
tax on gross  
receipts

(4) The collector may in any year reduce, refund or pay to the municipality any part of the tax imposed under section 11 on gross receipts where such receipts arose from telephones or other equipment situate in, on or under land that became part of a municipality in such year.

s. 33 (1),  
amended

**17.**—(1) Subsection 33 (1) of the said Act is amended by inserting after “under” in the first line and in the eleventh line “section 3 of”.

s. 33 (2),  
re-enacted

(2) Subsection 33 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Where no letters patent from the Crown have issued granting land in respect of which tax remains unpaid for a period of two years or more, the collector may, notwithstanding the requirement in subsection (1) of registering a caution, commence the forfeiture proceedings described therein by sending by registered mail to the persons described in that subsection, the notice of liability to forfeiture described therein.

s. 33 (8),  
amended

(3) Subsection 33 (8) of the said Act is amended by striking out “in red ink” in the fourth line.

s. 35,  
amended

**18.** Section 35 of the said Act is amended by striking out “owner” in the first line and inserting in lieu thereof “person”.

s. 38  
(a, d, e),  
re-enacted

**19.**—(1) Clauses 38 (a), (d) and (e) of the said Act are repealed and the following substituted therefor:

(a) defining any word or expression used in this Act that has not already been expressly defined in this Act;

. . . . .

(d) for the purposes of subsection 10 (13), amending the table of rates set out in subsection 10 (3) and changing the year up to which depreciation shall be allowed set out in subsection 10 (12);

(da) for the purposes of subsection 10 (14), designating second and subsequent pipe lines and prescribing the percentage of the rates set out in subsection 10 (3) at which second and subsequent pipe lines shall be assessed and taxed;

(e) designating pipes in addition to those mentioned in clause 10 (1) (c) as pipe lines.

s. 38,  
amended

(2) Section 38 of the said Act is amended by adding thereto the following clauses:

- (h) providing for the payment of interest on any refund or rebate of tax that is authorized by this Act;
- (i) prescribing any rate of interest that is to be prescribed and the method by which it is to be calculated;
- (j) designating classes of land and declaring gross receipts from business carried on on such lands to be exempt, wholly or partially from the tax imposed under section 11.

(3) The said section 38 is further amended by adding thereto the following subsections: s. 38,  
amended

(2) The Minister may make regulations, Regulations  
by Minister

- (a) prescribing, defining or determining anything that he is permitted or required by this Act to prescribe, define or determine;
- (b) prescribing any form, return or bill required by this Act or the regulations or that, in his opinion, will assist in the administration of this Act, and prescribing how and by whom any form, return or bill shall be completed and what information it shall contain.

(3) A regulation is, if it so provides, effective with reference to a period before it was filed. Retroactivity

**20.**—(1) This Act, except section 11 and subsection 12 (5), comes into force on the 1st day of January, 1983. Commence-  
ment

(2) Section 11 and subsection 12 (5) come into force on the 1st day of April, 1983. Idem

**21.** The short title of this Act is the *Provincial Land Tax Amendment Act, 1982*. Short title







An Act to amend the  
Provincial Land Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

June 22nd, 1982

*3rd Reading*

June 24th, 1982

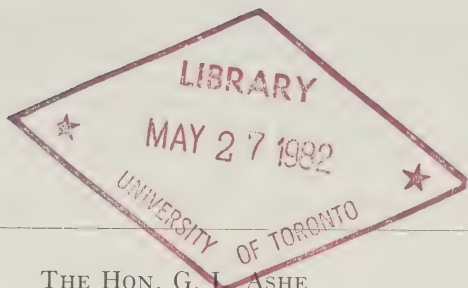
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THE HON. G. L. ASHE  
Minister of Revenue

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the Corporations Tax Act



THE HON. G. I. ASHE  
Minister of Revenue

#### EXPLANATORY NOTES

SECTION 1. This section re-enacts subsection 12 (6) relating to the 5/14ths inclusion in income of a rent, royalty or similar payment made to a related non-resident. The words "and that has included that amount in computing its taxable income earned in Canada" have been added at the end of subsection (6) to make it clear that the payer corporation will not be exempt from including 5/14ths of the payment in its income unless the non-resident corporation has in fact been taxed on that amount under the Ontario Act.

Subsection 12 (6a) is enacted to make it clear that a payment to a non-resident person which would otherwise be subject to the 5/14ths inclusion in income under subsection 12 (6) will still be subject to such inclusion if made to a person resident in Canada outside of Ontario, where such person is related to a non-resident person that controls the payer.

## An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 12 (6) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

s. 12 (6),  
re-enacted;  
s. 12 (6a),  
enacted

(6) Where an amount in respect of,

Management  
fee, rent and  
similar  
payment to  
non-resident  
to be included  
in income

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1)(a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply where the non-resident person to whom the amount is paid or payable is a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b) and that has included that amount in computing its taxable income earned in Canada.

R.S.C. 1952,  
c. 148

(6a) Where an amount to which subsection (6) would have been applied if it had been paid or payable to a non-resident person is paid or payable by a corporation (in this subsection referred to as the "payer") to a related person resident in Canada other than in Ontario and that person is related to another person not resident in Canada that controls the payer, the payer shall include 5/14ths of such amount in computing its income from a business or property for the taxation year.

Idem

s. 33 (1),  
re-enacted

**2.—(1)** Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Small business  
incentives

(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to,

R.S.C. 1952,  
c. 148

(a) 4 per cent of the amount determined under subsection (2); or

(b) 14 per cent of the amount determined under subsection (2) where the corporation has for a tax exempt year made a deduction under subsection 125 (1) of the *Income Tax Act* (Canada).

s. 33 (2) (a, b),  
re-enacted

**(2)** Clauses 33 (2) (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$200,000; and

(b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$200,000,

s. 33,  
amended

**(3)** Section 33 of the said Act is amended by adding thereto the following subsections:

Definition.  
tax exempt  
year

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Interpre-  
tation,  
non-arm’s  
length  
transactions

(2b) For the purpose of subsection (2a), where at any time after the 13th day of May, 1982, property of a corporation (hereinafter referred to as the “vendor”) is acquired, by purchase or otherwise (including an acquisition as a result of an amalgamation described in section 87 of the *Income Tax Act* (Canada) ), by another corporation (hereinafter referred to as the “purchaser”) not dealing at arm’s length with the vendor, and the property constitutes all or substantially all of the property of the vendor or the purchaser, as the case may be, any tax exempt year

SECTION 2. This section makes several amendments to section 33 of the Act relating to the small business incentives. Subsection 2 (1) adds clause (b) to subsection 33 (1) in order to provide that for small businesses eligible for the deduction from tax under subsection 125 (1) of the *Income Tax Act* (Canada), the small business incentive deduction under section 33 of this Act will be 14 per cent for the tax exempt years of such corporations, being any two taxation years ending after May 13, 1982 and before May 14, 1984.

Subsection (2) of this section amends clauses 33 (2) (a) and (b) to increase the limit for the amounts eligible for the small business incentive deduction to \$200,000 from \$150,000, in line with the proposed increase of the annual business limit of a corporation under section 125 of the *Income Tax Act* (Canada).

Subsection (3) of this section enacts new subsections 33 (2a) and (2b). Subsection 33 (2a) defines the tax exempt year of a corporation and is any taxation year ending after May 13, 1982 and before May 14, 1984, but there shall not be more than two tax exempt years. Subsection 33 (2b) clarifies the definition of tax exempt year to prevent additional claims for the exemption in the case of certain types of non-arm's length transfers and reorganizations.



SECTION 3. This section makes several amendments to section 53 of the Act relating to the calculation of paid-up capital for banks and loan and trust corporations. The new subsection (2) amends the terminology for banks to bring it in line with the new terminology in the *Bank Act* (Canada). There is no change in policy involved in this amendment.

Subsection 53 (5) is enacted to make it clear that where a bank has included in its "retained earnings" its share of the earnings of a subsidiary or controlled corporation, such amount will not be required to be included in its retained earnings for purposes of calculating its paid-up capital under section 53. This will avoid the double taxation of the amount excluded by the amendment since the subsidiary or controlled corporation may be required to include that amount in its paid-up capital.

Subsection 53 (6) is enacted to make the same amendment for loan and trust corporations as is being made for banks under the new subsection 53 (5).

Subsection 53 (7) is enacted to make it clear that the indebtedness of a corporation which is to be included in paid-up capital pursuant to clause 53 (1) (e) includes, in the case of a corporation that is the beneficiary of a trust, a portion of the indebtedness to which the property of the trust is subject equal to the corporation's beneficial interest in the trust. This does not represent a change in policy.

SECTION 4. This section adds two new subsections to section 54 of the Act. Subsection 54 (2a) clarifies the meaning of "total assets" for the purpose of calculating the investment allowance under clause 54 (1) (c). The amendment makes it clear that where the corporation is a partner of a partnership, the corporation's "total assets" will include the same proportion of the total assets of the partnership as the corporation's share of the profits of the partnership. This does not represent a change of policy.

of the vendor for which the vendor has made a deduction under clause (1) (b), ending in or before the taxation year of the purchaser in which the property was acquired, shall be deemed to be a tax exempt year of the purchaser for which the purchaser has made a deduction under clause (1) (b).

- 3.—(1) Subsection 53 (2) of the said Act is repealed and the following substituted therefor: s. 53 (2),  
re-enacted

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable  
paid-up  
capital  
of banks

- (a) its paid-up capital stock;
- (b) its contributed surplus, its general reserve, and all of its other reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and
- (c) its retained earnings, its capital surplus, and any other surplus not included by virtue of clause (b).

- (2) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, is further amended by adding thereto the following subsections: s. 53,  
amended

(5) For the purpose of subsection (2), in computing the taxable paid-up capital of a bank there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-  
tation, banks

(6) For the purpose of subsection (3), in computing the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-  
tation, loan  
and trust  
corporations  
R.S.O. 1980,  
c. 249

(7) For the purpose of clause (1) (e), the indebtedness of a corporation that is the beneficiary of a trust shall include the same proportion of the indebtedness of the trust secured by the assets of the trust as its beneficial interest in the trust. Interpre-  
tation, trusts

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended by adding thereto the following subsections: s. 54,  
amended

Interpre-  
tation,  
"total assets"

(2a) For the purpose of clause (1) (c), "total assets" of a corporation includes the same proportion of the total assets of a partnership of which the corporation is a partner as the share of the profits of the partnership to which the corporation is entitled under the partnership agreement, but does not include the amount invested by the corporation in the partnership.

Interpre-  
tation, "any  
other surplus"

(2b) For the purpose of this Part, "any other surplus" includes, in addition to any amount included therein by virtue of subsection (3), any amount required to be included in income for the purpose of Part II, other than,

(a) an amount referred to in subsections 12 (6) and (6a); and

(b) an amount referred to in paragraph 12 (1) (o), subsections 15 (1) and (2), 17 (1) and subsection 37.1 (3) of the *Income Tax Act* (Canada) as made applicable by virtue of subsection 12 (1) of this Act,

R.S.C. 1952,  
c. 148

to the extent that such amount is not included in the corporation's income as shown in its financial statements.

s. 70 (2) (a),  
re-enacted

5.—(1) Clause 70 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 14, is repealed and the following substituted therefor:

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of,

(A) the tax payable as estimated by it for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from,

Subsection 54 (2b) is enacted to make it clear that in calculating paid-up capital, "any other surplus" will include any amount that is required to be included in income for purposes of Part II but is not included in its retained earnings for book purposes. Exception is provided with respect to certain amounts.

SECTION 5. This section amends clause 70 (2) (a) regarding the methods for paying tax by instalments. Subclause (i) is amended to make it clear that the first two options of the corporation are to pay either 1/12th of the tax payable as estimated by it for the year or 1/12th of its first instalment base. Subclause (ii) is amended to give the corporation a fourth option. The existing third option is retained, namely, the option of basing its first two payments on its second instalment base and the remaining ten instalments on its first instalment base; the additional option is to base the remaining ten instalments on its tax payable as estimated by it for the current year.

Subsection (2) of this section enacts subsections 70 (8) and (9). Subsection 70 (8) provides that where the taxation year of a corporation does not end on the last day of a month, then the instalments will be required on the day of a month corresponding to the day on which the taxation year ends.

Subsection 70 (9) is complementary to the amendment made by section 2 of the Bill and provides that for a corporation which is entitled to the deduction under clause 33 (1) (b), the instalments required for a taxation year ending after a tax exempt year will be calculated as if it had not been entitled to the deduction under clause 33 (1) (b) but was only entitled to the deduction under clause 33 (1) (a). Since the instalments for a taxation year may be based on the tax payable for a previous taxation year, this provision was necessary to ensure payment of the proper amount of instalments for a taxation year ending after a tax exempt year of the corporation.

SECTION 6. This section enacts a new subsection 75 (1a) to provide that where a corporation eligible for the deduction under clause 33 (1) (b) has paid instalments for its first taxation year ending after May 13, 1982, the corporation may apply for a refund of any overpayment of instalments resulting from the deduction under clause 33 (1) (b). This amendment is complementary to the amendment made by section 2 of the Bill.

SECTION 7. This section amends subsection 76 (2) and is complementary to the amendments made by sections 2 and 6 of the Bill. This amendment provides that no interest will be payable on any refunds made pursuant to the new subsection 75 (1a).

(A) the tax payable as estimated by it for the taxation year under subclause (i), or

(B) its first instalment base for the taxation year.

- (2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, is further amended by adding thereto the following subsections: <sup>s. 70, amended</sup>

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month. <sup>Idem</sup>

(9) For the purpose of calculating, for a corporation to which clause 33 (1) (b) applied in a previous taxation year, the instalments required under clause (2) (a) for a taxation year other than a tax exempt year as defined in subsection 33 (2a), and for the purpose of calculating its first instalment base and second instalment base for that taxation year, the corporation shall be deemed to have made a deduction from tax under clause 33 (1) (a) and not 33 (1) (b). <sup>Idem</sup>

6. Section 75 of the said Act is amended by adding thereto the following subsection: <sup>s. 75, amended</sup>

(1a) Where a corporation is eligible for the deduction from tax under clause 33 (1) (b) in respect of its first taxation year ending after the 13th day of May, 1982, and it has paid instalments of tax in accordance with clause 70 (2) (a) in respect of that taxation year, the Minister may make a refund of such instalments if application therefor has been made in writing by the corporation prior to the date of assessment under section 73. <sup>Idem</sup>

7. Subsection 76 (2) of the said Act is repealed and the following substituted therefor: <sup>s. 76 (2), re-enacted</sup>

(2) Subsection (1) does not apply with respect to any refund or amount to which subsection 75 (1a) or (5) applies. <sup>Application</sup>

- 8.—(1) Subsection 5 (1) and subsection 70 (8) of the said Act, as enacted by subsection 5 (2) of this Act, shall be deemed to have <sup>Commence-  
ment and  
application</sup>

come into force on the 1st day of January, 1981 and apply to corporations in respect of all taxation years ending after 1980.

- |             |  |
|-------------|--|
| Idem        | (2) Section 1 shall be deemed to have come into force on the 14th day of May, 1982 and applies to payments made after the 13th day of May, 1982.   |
| Idem        | (3) Subsections 2 (1) and (3), sections 3 and 4, subsection 70 (9) of the said Act, as enacted by subsection 5 (2) of this Act, and sections 6 and 7 shall be deemed to have come into force on the 14th day of May, 1982 and apply to corporations in respect of all taxation years ending after the 13th day of May, 1982. |
| Idem        | (4) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.   |
| Short title | <b>9.</b> The short title of this Act is the <i>Corporations Tax Amendment Act, 1982</i> .   |











An Act to amend the  
Corporations Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. G. L. ASHE  
Minister of Revenue

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*(Government Bill)*

ON

Publication

**BILL 114**

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

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LEGISLATIVE ASSEMBLY

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**An Act to amend the Corporations Tax Act**

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THE HON. G. L. ASHE  
Minister of Revenue

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## An Act to amend the Corporations Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 12 (6) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 

s. 12 (6),  
re-enacted;  
s. 12 (6a),  
enacted

(6) Where an amount in respect of,

(a) a management or administration fee or charge;

(b) a rent, royalty or a similar payment; or

(c) a right in or to the use of motion picture film or films or video tapes for use in connection with television that have been or are to be used or reproduced in Canada,

Management  
fee, rent and  
similar  
payment to  
non-resident  
to be included  
in income

is paid or payable by a corporation to a non-resident person with whom it was not dealing at arm's length, the corporation shall include 5/14ths of such amount in computing its income from a business or property for the taxation year in which the amount was subjected to tax under paragraph 212 (1)(a), (d) or (e) of the *Income Tax Act* (Canada) or subsection 212 (5) of that Act, except that clause (b) does not apply where the non-resident person to whom the amount is paid or payable is a corporation that is liable to the taxes imposed under this Act by virtue of clause 2 (2) (b) or clause 2 (3) (b) and that has included that amount in computing its taxable income earned in Canada.

R.S.C. 1952,  
c. 148

(6a) Where an amount to which subsection (6) would have been applied if it had been paid or payable to a non-resident person is paid or payable by a corporation (in this subsection referred to as the "payer") to a related person resident in Canada other than in Ontario and that person is related to another person not resident in Canada that controls the payer, the payer shall include 5/14ths of such amount in computing its income from a business or property for the taxation year. Idem

s. 33 (1),  
re-enacted

**2.—(1)** Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

Small business  
incentives

(1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that, with respect to that taxation year, is eligible for a deduction under section 125 of the *Income Tax Act* (Canada), an amount equal to,

R.S.C. 1952,  
c. 148

(a) 4 per cent of the amount determined under subsection (2); or

(b) 14 per cent of the amount determined under subsection (2) where the corporation has for a tax exempt year made a deduction under subsection 125 (1) of the *Income Tax Act* (Canada).

s. 33 (2) (a, b),  
re-enacted

**(2)** Clauses 33 (2) (a) and (b) of the said Act are repealed and the following substituted therefor:

(a) with respect to a corporation to which subsection 125 (1) of the *Income Tax Act* (Canada) applies, that proportion of the least of the amounts determined under paragraphs 125 (1) (a), (b), (c) and (d) for the taxation year, not exceeding \$200,000; and

(b) with respect to a corporation to which subsection 125 (1.1) of the *Income Tax Act* (Canada) applies, that proportion of the lesser of the amounts determined under paragraphs 125 (1.1) (a) and (b) for the taxation year, not exceeding \$200,000,

s. 33,  
amended

**(3)** Section 33 of the said Act is amended by adding thereto the following subsections:

Definition,  
tax exempt  
year

(2a) For the purpose of clause (1) (b), a “tax exempt year” of a corporation is a taxation year ending after the 13th day of May, 1982 and before the 14th day of May, 1984, but in no case shall a corporation have more than two tax exempt years.

Interpre-  
tation,  
non-arm's  
length  
transactions

(2b) For the purpose of subsection (2a), where at any time after the 13th day of May, 1982, property of a corporation (hereinafter referred to as the “vendor”) is acquired, by purchase or otherwise (including an acquisition as a result of an amalgamation described in section 87 of the *Income Tax Act* (Canada) ), by another corporation (hereinafter referred to as the “purchaser”) not dealing at arm's length with the vendor, and the property constitutes all or substantially all of the property of the vendor or the purchaser, as the case may be, any tax exempt year

of the vendor for which the vendor has made a deduction under clause (1) (b), ending in or before the taxation year of the purchaser in which the property was acquired, shall be deemed to be a tax exempt year of the purchaser for which the purchaser has made a deduction under clause (1) (b).

- 3.—(1) Subsection 53 (2) of the said Act is repealed and the following substituted therefor: s. 53 (2),  
re-enacted

(2) Notwithstanding subsection (1), the taxable paid-up capital of a bank for a taxation year is its taxable paid-up capital as it stood at the close of the taxation year, and includes, Taxable  
paid-up  
capital  
of banks

(a) its paid-up capital stock;

(b) its contributed surplus, its general reserve, and all of its other reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II; and

(c) its retained earnings, its capital surplus, and any other surplus not included by virtue of clause (b).

- (2) Section 53 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 10, is further amended by adding thereto the following subsections: s. 53,  
amended

(5) For the purpose of subsection (2), in computing the taxable paid-up capital of a bank there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-  
tation, banks

(6) For the purpose of subsection (3), in computing the taxable paid-up capital of a corporation registered under the *Loan and Trust Corporations Act* there shall be excluded any amount that represents its share of the accumulated earnings or losses of another corporation, and there shall be included the amount of any dividends received from that other corporation. Interpre-  
tation, loan  
and trust  
corporations  
R.S.O. 1980,  
c. 249

(7) For the purpose of clause (1) (e), the indebtedness of a corporation that is the beneficiary of a trust shall include the same proportion of the indebtedness of the trust secured by the assets of the trust as its beneficial interest in the trust. Interpre-  
tation, trusts

4. Section 54 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 11, is further amended by adding thereto the following subsections: s. 54,  
amended



Interpre-  
tation,  
"total assets"

(2a) For the purpose of clause (1) (c), "total assets" of a corporation includes the same proportion of the total assets of a partnership of which the corporation is a partner as the share of the profits of the partnership to which the corporation is entitled under the partnership agreement, but does not include the amount invested by the corporation in the partnership.

Interpre-  
tation, "any  
other surplus"

(2b) For the purpose of this Part, "any other surplus" includes, in addition to any amount included therein by virtue of subsection (3), any amount required to be included in income for the purpose of Part II, other than,

(a) an amount referred to in subsections 12 (6) and (6a); and

(b) an amount referred to in paragraph 12 (1) (o), subsections 15 (1) and (2), 17 (1) and subsection 37.1 (3) of the *Income Tax Act* (Canada) as made applicable by virtue of subsection 12 (1) of this Act,

R.S.C. 1952,  
c. 148

to the extent that such amount is not included in the corporation's income as shown in its financial statements.

s. 70 (2) (a),  
re-enacted

5.—(1) Clause 70 (2) (a) of the said Act, as re-enacted by the Statutes of Ontario, 1981, chapter 37, section 14, is repealed and the following substituted therefor:

(a) on or before,

(i) the last day of each month of the taxation year in respect of which the tax is payable, an instalment equal to one-twelfth of,

(A) the tax payable as estimated by it for the taxation year, or

(B) its first instalment base for the taxation year, or

(ii) the last day of each of the first two months of the taxation year in respect of which the tax is payable an instalment equal to one-twelfth of its second instalment base for the taxation year, and on or before the last day of each of the following ten months of the taxation year an instalment equal to one-tenth of the amount remaining after deducting the amount computed pursuant to this subclause in respect of the first two months of the taxation year from,

(A) the tax payable as estimated by it for the taxation year under subclause (i), or

(B) its first instalment base for the taxation year.

- (2) Section 70 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 37, section 14, is further amended by adding thereto the following subsections: <sup>s. 70, amended</sup>

(8) For the purpose of subsection (2), where the taxation year of a corporation does not end on the last day of a calendar month, any reference in the said subsection (2) to the last day of a month shall be deemed, in respect of that corporation, to be a reference to the day of that month corresponding to the day on which the previous taxation year ended, except that where the previous taxation year ends on the 29th, 30th or 31st day of a month, the said reference to the last day of a month shall, with respect to the month of February, be deemed to be a reference to the last day of that month. <sup>Idem</sup>

(9) For the purpose of calculating, for a corporation to which clause 33 (1) (b) applied in a previous taxation year, the instalments required under clause (2) (a) for a taxation year other than a tax exempt year as defined in subsection 33 (2a), and for the purpose of calculating its first instalment base and second instalment base for that taxation year, the corporation shall be deemed to have made a deduction from tax under clause 33 (1) (a) and not 33 (1) (b). <sup>Idem</sup>

6. Section 75 of the said Act is amended by adding thereto the following subsection: <sup>s. 75, amended</sup>

(1a) Where a corporation is eligible for the deduction from tax under clause 33 (1) (b) in respect of its first taxation year ending after the 13th day of May, 1982, and it has paid instalments of tax in accordance with clause 70 (2) (a) in respect of that taxation year, the Minister may make a refund of such instalments if application therefor has been made in writing by the corporation prior to the date of assessment under section 73. <sup>Idem</sup>

7. Subsection 76 (2) of the said Act is repealed and the following substituted therefor: <sup>s. 76 (2), re-enacted</sup>

(2) Subsection (1) does not apply with respect to any refund or amount to which subsection 75 (1a) or (5) applies. <sup>Application</sup>

- 8.—(1) Subsection 5 (1) and subsection 70 (8) of the said Act, as enacted by subsection 5 (2) of this Act, shall be deemed to have <sup>Commence-  
ment and  
application</sup>

come into force on the 1st day of January, 1981 and apply to corporations in respect of all taxation years ending after 1980.

Idem

- (2) Section 1 shall be deemed to have come into force on the 14th day of May, 1982 and applies to payments made after the 13th day of May, 1982.

Idem

- (3) Subsections 2 (1) and (3), sections 3 and 4, subsection 70 (9) of the said Act, as enacted by subsection 5 (2) of this Act, and sections 6 and 7 shall be deemed to have come into force on the 14th day of May, 1982 and apply to corporations in respect of all taxation years ending after the 13th day of May, 1982.

Idem

- (4) Subsection 2 (2) shall be deemed to have come into force on the 1st day of January, 1982 and applies to corporations in respect of all taxation years ending after 1981.

Short title

- 9.** The short title of this Act is the *Corporations Tax Amendment Act, 1982*.







An Act to amend the  
Corporations Tax Act

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*1st Reading*

May 14th, 1982

*2nd Reading*

June 23rd, 1982

*3rd Reading*

June 24th, 1982

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THE HON. G. L. ASHE  
Minister of Revenue

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356

Government  
Publication

**BILL 115**

**Government Bill**

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

**An Act to amend the Retail Sales Tax Act**



THE HON. G. L. ASHE  
Minister of Revenue

TORONTO

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## EXPLANATORY NOTES

GENERAL. The Bill implements the following proposals in the Treasurer's Budget:

- (a) The rate of tax on transient accommodation is decreased from 7 per cent to 5 per cent;
- (b) The tax of 7 per cent on taxable services is extended to the labour required to install, adjust, repair or maintain goods;
- (c) Candies, confections and soft drinks which were previously exempt when purchased for less than 50 cents, will no longer be exempt from tax. Snack foods, such as potato chips and salted nuts, previously exempt, will no longer be so;
- (d) The exemption from tax for prepared meals under \$6.00 is removed and tax becomes exigible on the purchase of all food products sold through eating establishments including restaurants, lunch counters or snack bars whether the food products are consumed on the premises, taken out or delivered. The rate of tax on prepared meals is reduced from 10 per cent to 7 per cent;
- (e) Existing exemptions from the 7 per cent rate of tax are revised as follows:
  - (i) magazines will be exempt only when purchased by subscription,
  - (ii) the exemption for vehicles fueled exclusively by fuels other than gasoline or diesel oil is expanded to include vehicles that are fueled by both fossil and alternate fuels,
  - (iii) trees, shrubs, bushes, seeds and plants will be exempt only when purchased by persons engaged in the business of farming,
  - (iv) there will no longer be any exemption from tax for personal hygiene and household products, materials for thermal insulation, street flushers, street sweepers, classroom or student supplies, buses for public transportation, pets, patterns, textiles, smoke alarms, restaurant and hotel furnishings, materials used to provide transient accommodation and materials purchased for the construction of hospitals, nurses' residences, schools, universities and capital works of a municipality.

In addition to these changes, other administrative changes are proposed that will clarify the application of the Act and provide that purchasers who refuse to pay the retail sales tax owing at the time of a sale, will no longer be entitled to complete the sale. Penalty provisions are introduced for such purchasers and for vendors who wilfully complete a sale without collecting the tax.

SECTION 1.—Subsection 1. The amendment provides that where there is a deemed sale of tangible personal property under the Act from a corporation to its shareholders as a result of winding up or dissolution of the corporation, retail sales tax will be payable on the fair market value of the tangible personal property which is transferred.

Subsection 2. Provides for a deemed sale of tangible personal property from a corporation to its shareholders at the time of the winding up of the corporation except where the corporation has already paid retail sales tax with respect to its use or consumption of the property or where the tangible personal property is otherwise exempt from tax under the Act or is acquired by the shareholder for the purpose of resale.

Subsection 3. The amendment removes from the definition of “tangible personal property” those chattels for which rent is paid after they are attached to realty and become fixtures. The result of the amendment is that retail sales tax will become payable on the purchase price of the chattel when it is purchased for installation or attachment to the realty rather than on the rental payments subsequently charged for the chattel.

Paragraph 19 of section 1 of the Act now reads as follows:

1. *In this Act,*

19. *“tangible personal property” means personal property that can be seen, weighed, measured, felt or touched, or that is in any way perceptible to the senses, and includes natural gas, manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid for possession or occupation of the real property to which the chattel is affixed.*

Subsection 4. The amendment expands the definition of “taxable service” to include the labour provided to install, adjust, repair or maintain goods.

Paragraph 21 of section 1 now reads as follows:

1. *In this Act,*

21. *“taxable service” means,*

(a) *telecommunication services of all kinds, including without restricting the generality of the foregoing, telephone and telegraph services, community antenna television and cable television, transmissions by microwave relay stations or by satellite, and pay television, but not including public broadcasting services that are broadcast through the air for direct reception by the public without charge, or*

(b) *transient accommodation.*

Subsection 5. The amendment expands the definition of “transient accommodation” to include prepared food products furnished on the American plan or modified American plan.

Paragraph 24 of section 1 now reads as follows:

24. *“transient accommodation” means the provision of lodging in hotels, motels, hostels, apartment houses, lodging houses, boarding houses, clubs and other similar accommodation, whether or not a membership is required for the lodging, but does not include lodging let for a continuous period of one month or more or lodging in a lodging house, rooming house, or boarding house, if such house has accommodation for fewer than four tenants.*

SECTION 2.—Subsection 1. The amendment reduces the tax on prepared meals to 7 per cent.

Subsection 2 (2) now reads as follows:

*(2) Every purchaser of the following classes of tangible personal property shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof:*

*1. liquor, beer or wine;*

*2. prepared meals sold at a price of over \$6.00.*

Subsection 2. The amendment applies a tax rate of 7 per cent to the labour provided to install, alter, repair or maintain goods.

Subsection 2 (3) now reads as follows:

*(3) Every purchaser of a taxable service shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 7 per cent of the fair value thereof.*

Subsection 3. The amendment provides for a reduction on the rate of tax on transient accommodation to 5 per cent.

SECTION 3.—Subsection 1. The amendment excludes from the exemption for food products, candies, confections, soft drinks, snack foods and all food products purchased after June 13, 1982 from an eating establishment.

Paragraph 1 of subsection 5 (1) now reads as follows:

*(1) The purchaser of the following classes of tangible personal property and taxable services is exempt from the tax imposed by this Act:*

*1. food products for human consumption, except candies, confections or soft drinks purchased for a price that exceeds 49 cents, or for a price that exceeds 49 cents and that is specified to be payable in the purchase of two or more items, packages, bags, cartons or containers thereof.*

Subsection 2. The amendment provides exemptions from the tax on labour provided to install, adjust, repair or maintain goods with respect to the installation of fixtures and repair of realty, reconditioning for resale, provision of the taxable service for own use and repair where no tax is exigible on repair parts. The exemption from tax for prepared meals under \$6.00 is removed.

Paragraph 2 of subsection 5 (1) now reads as follows:

*2. any prepared meal the price of which neither exceeds \$6.00 nor is included in the sale price of two or more prepared meals that are sold to one purchaser for a total sale price that exceeds \$6.00.*

Subsection 3. The exemption from tax for prepared meals under \$6.00 is removed.

Paragraph 3 of subsection 5 (1) now reads as follows:

*3. all prepared meals the prices of which are included in the total sale price of two or more prepared meals that are sold to one purchaser and that are consumed by two or more people if the average price of all the prepared meals the prices of which are included in such total sale price is not more than \$6.00 and if that average price is determined by dividing such total price by the number of people to whom was served a prepared meal the price of which was included in such total sale price and if the bill to the purchaser that contains such total sale price clearly shows the number of*

*people to whom were served the prepared meals the prices of which were included in such total sale price.*

Subsection 4. The amendment expands the exemption from vehicles fueled exclusively by fuels other than gasoline or diesel oil, to include vehicles that are fueled by both fossil and alternate fuels.

Paragraph 14 of subsection 5 (1) now reads as follows:

- 14. vehicles that are required to be licensed under the Highway Traffic Act and the energy to operate which is exclusively electrical energy or energy derived from the internal combustion of ethyl alcohol, methyl alcohol, natural gas or manufactured gas, but only if no part of the energy for the operation of the vehicle is derived from the internal combustion of any fuel taxed under the Gasoline Tax Act or the Motor Vehicle Fuel Tax Act.*

Subsection 5. The amendment provides for an exemption for “agricultural products” as defined by the Minister when purchased by persons engaged in the business of farming.

Paragraph 15 of subsection 5 (1) now reads as follows:

- 15. farm implements, farm machinery, farm equipment and repair parts, as defined by the Minister, that in his opinion are to be used by a person engaged in the business of farming.*

Subsection 6. The amendments repeal the exemption for trees, shrubs, bushes, seeds and plants, the purchase of live stock and for personal hygiene and household products.

Paragraphs 16, 21 and 24 of subsection 5 (1) now read as follows:

- 16. trees, shrubs, bushes, seeds and seedlings, cut flowers and plants, bulbs from which plants or flowers may be grown, growing plants and flowers and the containers in which they are growing, but not any artificial plant, flower or tree;*

- 21. agricultural products, including live stock;*

- 24. personal hygiene and household products, as defined by the Minister, purchased for household use and not for use in any commercial, industrial or institutional establishment.*

Subsection 7. The amendment removes the exemption for street flushers and street sweepers purchased by a municipality, university or public hospital. The exemption for the purchase of fire-fighting vehicles is extended to include local service boards and volunteer groups.

Paragraph 27 of subsection 5 (1) now reads as follows:

- 27. street flushers, street sweepers and fire-fighting vehicles, as defined by the Minister, and purchased for the exclusive use of a municipality, university or public hospital at a price of more than \$1,000 per vehicle.*

Subsection 8. The amendment repeals the exemption for materials used for thermal insulation and for items used to provide transient accommodation.



Paragraphs 29 and 30 of subsection 5 (1) now read as follows:

29. *materials or equipment that are used for the conservation of energy and that are,*
- (a) *thermal insulation materials, as defined by the Minister, that are sold primarily to insulate buildings and that are not primarily for a use prescribed by the Minister to be excluded from the exemption conferred by this paragraph,*
  - (b) *storm windows and storm doors, as defined by the Minister,*
  - (c) *heat pumps for use principally to provide heat in the heating system of a building,*
  - (d) *heat recovery units or devices for extracting heat from exhaust air or waste water to recover energy,*
  - (e) *units or chillers that are designed for use as part of an air-conditioning system and for the recovery and redistribution of heat when such units or chillers meet the conditions and specifications prescribed by the Minister,*
  - (f) *solar cells to be used to produce directly from sunlight electricity to charge batteries,*
  - (g) *solar furnaces, panels and tubes specially designed to collect and convert solar energy into heat for use in a solar heating system,*
  - (h) *windmills and wind-powered generators that produce mechanical or electrical energy, and pumps and generators specially designed for use directly with such devices,*
  - (i) *timer-controlled thermostats for heating systems in buildings and automatic timer controls for electrical equipment,*
  - (j) *wood-burning stoves and wood-burning furnaces, or*
  - (k) *wind deflectors for trucks;*
30. *tangible personal property that is prescribed by the Minister for the purpose of this paragraph and that is purchased by a vendor to be consumed by him in the provision of transient accommodation.*

Subsection 9. The amendment provides for an expression of metric measurement.

Paragraph 34 of subsection 5 (1) now reads as follows:

34. *vessels of more than 500 tons gross.*

Subsection 10. The amendment provides updated expressions for various physical handicaps.

Paragraph 38 of subsection 5 (1) now reads as follows:

38. *equipment designed solely for the use of blind persons, cripples or chronic invalids.*

Subsection 11. The amendment is made for housekeeping purposes.

Clause (e) of paragraph 45 of subsection 5 (1) now reads as follows:

- (e) a tractor (other than a highway truck tractor) powered by an internal combustion engine, a logging wagon, logging sled, logging car or logging crane, a captive balloon with a volume of 150,000 cubic feet or more, or wire rope, blocks and tackle, or machinery, and is used exclusively in logging operations including the removal of the log from the stump to the skidway, log dump, or to a common or other carrier.*

Subsection 12. The amendment provides for an expression of metric measurement.

Paragraph 47 of subsection 5 (1) now reads as follows:

- 47. tangible personal property to be shipped by the vendor for delivery outside Ontario, including ships' stores delivered to commercial vessels of more than 500 tons gross that normally operate in extra-territorial waters.*

Subsection 13. The amendments made to paragraphs 48 and 49 are for housekeeping purposes.

The exemption for classroom supplies and students' supplies is repealed.

Paragraphs 48, 49, 51 and 52 of subsection 5 (1) now read as follows:

- 48. the occupancy of transient accommodation during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, provided that occupancy for any period of twenty-four hours or less that includes any part of the 7th day of March, 1978 is not entitled to the exemption conferred by this paragraph, and occupancy for any period of twenty-four hours or less that includes any part of the 31st day of December, 1981, is entitled to the exemption conferred by this paragraph;*
- 49. prepared meals served during the period commencing on the 8th day of March, 1978 and ending with the 31st day of December, 1981, if such prepared meals are provided together with transient accommodation in the said period for one charge for both meals and accommodation under the system commonly known as "the American Plan" or "Modified American Plan";*
- . . . . .
- 51. classroom supplies, as defined by the Minister purchased for use or consumption and not for resale by schools, school boards or universities;*
- 52. students' supplies, as defined by the Minister.*

Subsection 14. The amendment provides for an exemption for those books that are defined by the Minister.

Paragraph 53 of subsection 5 (1) now reads as follows:

- 53. books that are printed and bound and that are published solely for educational, technical, cultural or literary purposes and that contain no advertising, but not directories, price lists, time tables, rate books, catalogues, reports, fashion books, albums or any books of the same general classes.*

Subsection 15. The amendment provides that magazines will be exempt only if purchased by subscription.



Paragraph 55 of subsection 5 (1) now reads as follows:

*55. magazines as defined by the Minister.*

Subsection 16. The amendment is made for housekeeping purposes.

Paragraph 57 of subsection 5 (1) now reads as follows:

*57. machinery or equipment that, pursuant to a contract for the acquisition or rental of such machinery or equipment or pursuant to a direction for the fabrication or manufacture thereof made or given after the 7th day of April, 1975 and before the 1st day of January, 1977, is delivered after the 7th day of April, 1975 and before the 1st day of January, 1978 to the person by whom such machinery or equipment is to be used, if such machinery or equipment is, in the opinion of the Minister, to be used principally in,*

*(a) the process of manufacturing or producing tangible personal property for sale or use by the manufacturer or producer thereof, or*

*(b) the construction of capital works, buildings, structures, roads or similar projects when the value of any separate piece of machinery or equipment so used and for which exemption is claimed under this paragraph is not less than \$500,*

*but no exemption may be claimed under this paragraph for any machinery or equipment,*

*(c) that is, in the opinion of the Minister, principally used in the production or provision of a taxable service,*

*(d) the contract for the rental or acquisition of which or the direction for the fabrication or manufacture of which is, in the opinion of the Minister, made for the purpose of obtaining the exemption conferred by this paragraph in substitution for or as the result of the cancellation of a substantially similar contract entered into or direction made or given before the 8th day of April, 1975, or*

*(e) prescribed by the Minister to be excluded from the exemption conferred by this paragraph.*

Subsection 17. The amendment removes the exemption for educational publications and exempts publications of a charitable or benevolent organization.

Paragraph 65 of subsection 5 (1) now reads as follows:

*65. religious and educational publications, as defined by the Minister.*

Subsection 18. The amendment removes the exemption for buses purchased for public transportation.

Paragraph 67 of subsection 5 (1) now reads as follows:

*67. buses, excluding school buses, when purchased in good faith to provide public transportation within a municipality as defined by the Minister, and repairs to such equipment.*

Subsection 19. The amendment removes the exemption for tangible personal property that is purchased through a contract for incorporation into a hospital, nurses' residence, school or university building.

Paragraph 68 of subsection 5 (1) now reads as follows:

- 68. tangible personal property that enters directly into and becomes part of real property that is a building or structure and that, upon completion is owned by the governing board of a public hospital, school or university and used for school, university or hospital purposes, including a nurses' residence, if the cost of such tangible personal property is shown to have been directly and substantially borne by the school, university or public hospital, or the governing board thereof, that owns the building or structure into the construction of which such tangible personal property entered.*

Subsection 20. The amendment removes the exemption for tangible personal property that becomes part of the construction of capital works owned by a municipality.

The amendment also removes the exemption for household pets.

Paragraphs 69 and 72 of subsection 5 (1) now read as follows:

- 69. tangible personal property that enters directly into and becomes part of the construction of capital works that, upon completion, are owned by a municipality or by a local board thereof, if the cost of such tangible personal property is shown to have been directly and substantially borne by the municipality or local board thereof that owns the capital works into the construction of which such tangible personal property entered;*

- 72. animals, including birds, fish and reptiles, sold for use as household pets.*

Subsection 21. The amendment replaces an expression of Imperial measurement with the metric expression.

Paragraph 75 of subsection 5 (1) now reads as follows:

- 75. vessels, as defined by the Minister, that do not exceed 500 tons gross and that are operated for commercial purposes, repairs to such vessels, and machinery or equipment purchased to refit such vessels.*

Subsection 22. The amendment repeals the exemption for patterns, textiles and smoke alarms. The repeal of paragraphs 79, 80, 81 and 82 removes various exemptions whose qualification periods have expired and is, therefore, made for housekeeping purposes.

Paragraphs 76, 77, 78, 79, 80, 81 and 82 now read as follows:

- 76. patterns for the making of clothing or wearing apparel;*
- 77. textiles, as defined by the Minister, and trimmings therefor, as defined by the Minister, but not including floor coverings, canvas, plastics of any kind, metal cloth, natural or synthetic fur and leather, or thread, wool, yarn and similar materials for sewing, knitting, crocheting and similar handicrafts, or any material or product prescribed by the Minister to be excluded from the exemption conferred by this paragraph;*
- 78. self-contained household smoke alarms purchased for use in residential premises;*

79. *furnishings, as defined by the Minister, or food preparation equipment, as defined by the Minister, when purchased for use in restaurants of the class or type prescribed by the Minister, or purchased for use in any hotel, motel, tourist resort or other similar tourist establishment, of the class or description prescribed by the Minister, provided that such furnishings or food preparation equipment is sold to, and delivery thereof is taken by, the purchaser wholly within the period commencing on the 11th day of April, 1979 and ending with the 31st day of December, 1981;*
80. *furniture, other than that prescribed by the Minister to be excluded from the exemption conferred by this paragraph, that is purchased for private household use, if the purchase is made before the 1st day of July, 1981 and delivery thereof is taken by the purchaser on or after the 14th day of November, 1980 and before the 1st day of July, 1981;*
81. *major home appliances that are manufactured for private household use and that are,*
- (a) refrigerators, freezers or kitchen ranges, including ovens and cooking tops sold separately for installation as a kitchen range, or*
  - (b) washers or dryers for the laundering of clothes,*
- but only when such appliances have never previously been sold, leased or rented by a dealer to a customer at a retail sale anywhere and are,*
- (c) purchased before the 1st day of July, 1981 and delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981, and*
  - (d) not appliances or a class or kind of appliance prescribed by the Minister to be excluded from the exemption conferred by this paragraph;*
82. *building materials, as defined by the Minister, that are purchased before the 1st day of July, 1981 and are delivered to the purchaser thereof on or after the 14th day of November, 1980 and before the 1st day of July, 1981.*

SECTION 4.—Subsection 1. The amendment provides that the form of Disallowance of a Rebate or Refund of tax will no longer be required to be prescribed by the Minister.

Subsection 17 (2) now reads as follows:

- (2) *Where a person has, in accordance with this Act and the regulations, applied for a refund or rebate under this Act or the regulations, and his claim is in whole or in part refused, the Minister shall cause to be served on such person a statement of disallowance in such form as the Minister shall prescribe, and the statement shall specify the amount of the disallowance and the reasons therefor.*

Subsection 2. The proposed amendment provides that the Minister may assess a penalty against a vendor who has failed to collect the tax that he is responsible to collect under the Act. The maximum is an amount equal to the tax that the vendor failed to collect.

Subsection 17 (3) now reads as follows:

- (3) *Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations and who has not complied with section 19 with respect to his failure to collect such tax shall, when assessed therefor, pay a penalty equal to the amount of tax that he failed to collect, but where the tax that should have been collected from a particular purchaser is \$50 or more and the vendor supplies to the Minister particulars of the transaction giving rise to such amount of tax and the name and address in Ontario of the purchaser liable for the tax, the Minister may, unless he is satisfied that the vendor wilfully neglected to collect such tax from such purchaser, assess such purchaser for such tax, in which case such tax shall not be included in an assessment made under this subsection.*

Subsection 3. The amendment adds two subsections which allow the Minister to assess a penalty against a vendor who has wilfully failed to collect or remit to the Treasurer tax exigible under the Act and against a purchaser who has wilfully refused to pay tax that is payable under this Act.

SECTION 5. The proposed amendment removes the provision which entitles a vendor to complete a sale without collecting the tax exigible, notify the Minister of the particulars of the sale and the name of the purchaser.

Section 19 now reads as follows:

19. *The purchaser is liable for the tax imposed by this Act until it is collected, and, where the purchaser refuses to pay the tax at the time it is collectable under section 10, the vendor shall within twenty days thereafter, notify the Minister thereof.*

SECTION 6. The amendment adds a subsection which clarifies that the assignee of the accounts receivable of a person who is a vendor under the Act must collect the tax exigible with respect to the account receivable so assigned and remit the tax to the Treasurer.

SECTION 7. The amendment removes the provisions which entitle the Minister to require a taxpayer to pay moneys into court as security for costs in an appeal commenced under the Act.

Subsections 23 (5) and (6) of the Act now read as follows:

- (5) *An appeal under this section and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, void unless security for the costs of the appeal has been, within the same period, paid into court in such sum, not exceeding \$400, as the Minister requires and, upon an appeal becoming void by virtue of this subsection, no other appeal or proceeding shall be instituted in respect of the same decision.*
- (6) *When security has been given under subsection (5), notice thereof shall be served on the Minister specifying the fact and the purpose of the payment.*

SECTION 8. The amendment is consequential on the amendment made in section 7 of the Bill.

Section 24 of the Act now reads as follows:

24. *The Minister shall with all due dispatch serve on the person appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and all statutory provisions and reasons as he intends to rely on,*



*and where the Minister has failed to serve the reply within 180 days from the date of service upon him of the notice under subsection 23 (6), the appellant may, upon twenty-one days notice to the Minister, apply to a judge of the Supreme Court for an order requiring the reply to be served within such time as the judge shall order, and the judge may, if he considers it proper in the circumstances, also order that, upon failure by the Minister to serve the reply in the time specified in the order, the assessment with respect to which the appeal is taken shall be vacated and any tax paid pursuant to such assessment shall be repaid to the appellant, but nothing in this section revives an appeal that is void or affects a statement or assessment that has become valid and binding under subsection 16 (8) or subsection 17 (7).*

SECTION 9. The subsection to be added empowers the Minister to authorize vendors to advertise or quote a price that includes the retail sales tax payable provided that the vendors who are authorized meet all conditions required by the Minister with respect to the advertisement.

SECTION 10.—Subsection 1. The amendment permits the Minister to make regulations providing that no tax is exigible with respect to the consumption by certain persons or classes of persons of prepared food products where no specific charge is made for the prepared food product.

Clause 45 (3) (d) of the Act now reads as follows:

- (d) providing for the rebate of all or part of the tax paid on the purchase of a motor vehicle that is or will be adapted for the transportation of persons who have a permanent physical handicap that renders it impractical for them to use the usual forms of public transportation, if available, provided that such purchasers do not operate or permit the use of such vehicles for profit or as part of any undertaking carried on for gain, and the Minister may determine the conditions on which such rebate may be made and the extent of the adaption necessary to entitle any person to such rebate.*

Subsection 2. The amendment provides for the repeal of two regulation-making powers of the Minister. The repeal of clauses 45 (3) (f) and (h) is consequential on the repeal of the exemption for the purchase of thermal insulation materials contained in section 3 of the Bill.

Clauses 45 (3) (f) and (h) of the Act now read as follows:

- (f) providing for the refund of tax paid on the purchase of thermal insulation materials, as defined for the purposes of paragraph 29 of subsection 5 (1), used after the 6th day of April, 1976 to insulate a building the construction of which has been completed, that is occupied permanently or seasonally for residential purposes, and that is not a building to which the exemption conferred by paragraph 29 of subsection 5 (1) does not apply;*
- (h) providing for the rebate of not more than \$700 of tax paid on the purchase of parts and materials incorporated into the construction of a solar heating system for residential premises, and prescribing the meaning of the expression "solar heating system", the conditions upon which and the class of persons to whom such rebate may be made, and the type of residential premises in which the installation of such solar heating system may qualify for the rebate.*

BILL 115

1982

## An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:
 

(e) in the case of a sale within the meaning of clause (i) of paragraph 17, the fair market value of the tangible personal property transferred to any shareholder,
- (2) Paragraph 17 of the said section 1 is amended by striking out all that part of the paragraph following clause (h) and by adding thereto the following clause:
 

(i) the transfer of title to or possession of tangible personal property from a corporation to any shareholder thereof as the result of the winding up or dissolution of the corporation, except where the corporation has paid tax under this Act with respect to its consumption or use of the tangible personal property to be transferred, or where, at the time of the corporation’s winding up or dissolution, the tangible personal property is exempt from tax under this Act or is acquired by a shareholder solely for the purpose of resale.
- (3) Paragraph 19 of the said section 1 is amended by striking out “manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid

s. 1, par. 4,  
amendeds. 1, par. 17,  
amendeds. 1, par. 19,  
amended

for possession or occupation of the real property to which the chattel is affixed" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "and manufactured gas".

s. 1, par. 21,  
amended

- (4) Paragraph 21 of the said section 1 is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

(c) labour provided to install, adjust, repair or maintain tangible personal property.

s. 1, par. 24,  
amended

- (5) Paragraph 24 of the said section 1 is amended by inserting after "lodging" in the fifth line "and includes the provision of prepared food products provided pursuant to the American plan, modified American plan or any other arrangement which combines the provision of lodging and prepared food products at a single price,".

s. 2 (2),  
re-enacted

- 2.**—(1) Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

of liquor,  
beer, wine

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof.

s. 2 (3),  
amended

- (2) Subsection 2 (3) of the said Act is amended by inserting after "service" in the first line "described in clause (a) or (c) of paragraph 21 of section 1".

s. 2,  
amended

- (3) Section 2 of the said Act is amended by adding thereto the following subsection:

Idem

(3) Every purchaser of a taxable service described in clause (b) of paragraph 21 of section 1 shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

s. 5 (1),  
par. 1,  
re-enacted

- 3.**—(1) Paragraph 1 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

1. food products for human consumption except,

(a) candies, confections, snack foods or soft drinks,  
and

(b) prepared food products purchased after the 13th day of June, 1982 from an eating establishment,  
as defined by the Minister.

- (2) Paragraph 2 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),  
par. 2,  
re-enacted

2. taxable services that are described in clause (c) of paragraph 21 of section 1 and that are,

- (a) provided to repair, adjust, restore or maintain real property,
- (b) provided to install tangible personal property that will become real property upon installation,
- (c) provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations,
- (d) provided to repair or recondition tangible personal property purchased for resale by a vendor, or
- (e) provided by a person for his own consumption or use.

- (3) Paragraph 3 of the said subsection 5 (1) is repealed. s. 5 (1),  
par. 3,  
repealed

- (4) Paragraph 14 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),  
par. 14,  
re-enacted

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either, R.S.O. 1980,  
c. 198

- (a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or

- (b) a combination of such energy with any fuel taxed under the *Gasoline Tax Act*, the *Motor Vehicle Fuel Tax Act* or the *Fuel Tax Act, 1981*. R.S.O. 1980,  
cc. 186, 300;  
1981, c. 59

- (5) Paragraph 15 of the said subsection 5 (1) is amended by inserting after "equipment" in the first line "agricultural products". s. 5 (1),  
par. 15,  
amended



s. 5 (1),  
pars. 16, 21,  
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 27,  
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group.

s. 5 (1),  
pars. 29, 30,  
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 34,  
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
par. 38,  
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),  
par. 45,  
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),  
par. 47,  
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
pars. 48, 49,  
51, 52,  
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 53,  
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),  
par. 55,  
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),  
par. 57,  
repealed

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

s. 5 (1),  
par. 65,  
re-enacted

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1),  
par. 67,  
repealed
  - (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1),  
par. 68,  
repealed
  - (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 69, 72,  
repealed
  - (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1),  
par. 75,  
amended
  - (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 76-82,  
repealed
- 4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2),  
amended
- (2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3),  
re-enacted
- (3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he failed to collect, but where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not make an assessment under this subsection against the vendor. Penalty for  
non-collection  
of tax
- (3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17,  
amended
- (3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for  
wilful non-  
collection  
of tax
- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his failure to collect; and
  - (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that he failed to collect where no penalty has been assessed against him under subsection (3).

s. 5 (1),  
pars. 16, 21,  
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 27,  
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group.

s. 5 (1),  
pars. 29, 30,  
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 34,  
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
par. 38,  
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),  
par. 45,  
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),  
par. 47,  
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
pars. 48, 49,  
51, 52,  
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 53,  
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),  
par. 55,  
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),  
par. 57,  
repealed

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

s. 5 (1),  
par. 65,  
re-enacted

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1),  
par. 67,  
repealed
  - (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1),  
par. 68,  
repealed
  - (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 69, 72,  
repealed
  - (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1),  
par. 75,  
amended
  - (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 76-82,  
repealed
- 4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2),  
amended
- (2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3),  
re-enacted
- (3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he failed to collect, but where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not make an assessment under this subsection against the vendor. Penalty for  
non-collection  
of tax
- (3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17,  
amended
- (3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for  
wilful non-  
collection  
of tax
- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his failure to collect; and
  - (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that he failed to collect where no penalty has been assessed against him under subsection (3).

Penalty

(5a) Where, under section 16, the Minister has assessed a vendor for tax collected or a purchaser for tax payable, he may further assess such vendor or purchaser a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 16, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by such vendor or purchaser that gave rise to the assessment made under section 16 was attributable to neglect, carelessness, wilful default or fraud.

s. 19,  
repealed

**5.** Section 19 of the said Act is repealed.

s. 20,  
amended

**6.** Section 20 of the said Act is amended by adding thereto the following subsection:

Assignment  
of book  
debts

(9) Where accounts receivable of a vendor are assigned under a specific or general assignment of book debts or are transferred in any other manner, any person who collects the amount owing under the accounts receivable that have been assigned or transferred, shall, whether he be any assignee, any person to whom the book debts were transferred, or agent for either of such persons, any liquidator, administrator, receiver, receiver-manager, trustee or like person, collect the tax that is payable under this Act with respect to the sales that gave rise to the accounts receivable that are being collected and that has not been collected by any vendor, and such person shall be deemed to be a vendor under this Act and to hold any tax collected under this Act in trust for Her Majesty in right of Ontario and shall remit any tax collected by him to the Treasurer at the time or times and in such manner as are prescribed by regulation.

s. 23 (5, 6),  
repealed

**7.** Subsections 23 (5) and (6) of the said Act are repealed.

s. 24,  
amended

**8.** Section 24 of the said Act is amended by striking out "under subsection 23 (6)" in the seventh line and inserting in lieu thereof "of appeal".

s. 38,  
amended

**9.** Section 38 of the said Act is amended by adding thereto the following subsection:

Where  
advertised  
price may  
include tax

(2) Notwithstanding subsection (1), the Minister may, where he considers it appropriate, authorize a vendor to advertise or quote a price that includes the tax imposed by this Act but only where the amount or rate of the tax so included is separately specified in such manner as the Minister requires and the Minister may specify such other conditions with respect to the advertisement or quotation that the vendor must satisfy.

s. 45 (3) (d),  
re-enacted

**10.—(1)** Clause 45 (3) (d) of the said Act is repealed and the following substituted therefor:



- (d) prescribing persons or classes of persons with respect to whose consumption of prepared food products no tax is exigible provided that those prepared food products are provided by them without specific charge.

- (2) Clauses 45 (3) (f) and (h) of the said Act are repealed. s. 45 (3)  
(f, h),  
repealed

**11.**—(1) This Act, except sections 1, 2, 3, 4, 5 and 10 comes into force on the day it receives Royal Assent. Commence-  
ment

- (2) Subsections 1 (1), (2) and (3), subsection 3 (1), subsections 3 (4) to (22), sections 4 and 5 and subsection 10 (2) shall be deemed to have come into force on the 14th day of May, 1982. Idem

- (3) Subsections 1 (4) and (5), subsections 2 (1) and (2), subsections 3 (2) and (3) and subsection 10 (1) shall be deemed to have come into force on the 14th day of June, 1982. Idem

- (4) Subsection 2 (3) shall be deemed to have come into force on the 14th day of June, 1982 with respect to the occupancy of transient accommodation during a period commencing after the 13th day of June, 1982. Idem

**12.** The short title of this Act is the *Retail Sales Tax Amendment Act*, 1982. Short title

An Act to amend the Retail Sales Tax Act

*1st Reading*

May 17th, 1982

*2nd Reading*

*3rd Reading*

THE HON. G. I. ASHE  
Minister of Revenue

*(Government Bill)*

# BILL 115

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act to amend the Retail Sales Tax Act

THE HON. G. L. ASHE  
Minister of Revenue



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO





BILL 115

1982

## An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

s. 1, par. 4,  
amended

- (e) in the case of a sale within the meaning of clause (i) of paragraph 17, the fair market value of the tangible personal property transferred to any shareholder,

. . . . .

- (2) Paragraph 17 of the said section 1 is amended by striking out all that part of the paragraph following clause (h) and by adding thereto the following clause:

s. 1, par. 17,  
amended

- (i) the transfer of title to or possession of tangible personal property from a corporation to any shareholder thereof as the result of the winding up or dissolution of the corporation, except where the corporation has paid tax under this Act with respect to its consumption or use of the tangible personal property to be transferred, or where, at the time of the corporation’s winding up or dissolution, the tangible personal property is exempt from tax under this Act or is acquired by a shareholder solely for the purpose of resale.

- (3) Paragraph 19 of the said section 1 is amended by striking out “manufactured gas, and any chattel that is a fixture and for the use, possession or enjoyment of which a fee, charge or rent is paid that is not included in any fee, charge or rent paid

s. 1, par. 19,  
amended

for possession or occupation of the real property to which the chattel is affixed" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "and manufactured gas".

s. 1, par. 21,  
amended

- (4) Paragraph 21 of the said section 1 is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

(c) labour provided to install, adjust, repair or maintain tangible personal property.

s. 1, par. 24,  
amended

- (5) Paragraph 24 of the said section 1 is amended by inserting after "lodging" in the fifth line "and includes the provision of prepared food products provided pursuant to the American plan, modified American plan or any other arrangement which combines the provision of lodging and prepared food products at a single price,".

s. 2 (2),  
re-enacted

- 2.—**(1) Subsection 2 (2) of the said Act is repealed and the following substituted therefor:

of liquor,  
beer, wine

(2) Every purchaser of liquor, beer or wine shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use thereof computed at the rate of 10 per cent of the fair value thereof.

s. 2 (3),  
amended

- (2) Subsection 2 (3) of the said Act is amended by inserting after "service" in the first line "described in clause (a) or (c) of paragraph 21 of section 1".

s. 2,  
amended

- (3) Section 2 of the said Act is amended by adding thereto the following subsection:

Idem

(3a) Every purchaser of a taxable service described in clause (b) of paragraph 21 of section 1 shall pay to Her Majesty in right of Ontario a tax in respect thereof computed at the rate of 5 per cent of the fair value thereof.

s. 5 (1),  
par. 1,  
re-enacted

- 3.—**(1) Paragraph 1 of subsection 5 (1) of the said Act is repealed and the following substituted therefor:

1. food products for human consumption except,

(a) candies, confections, snack foods or soft drinks,  
and

(b) prepared food products purchased after the 13th day of June, 1982 from an eating establishment, as defined by the Minister.

- (2) Paragraph 2 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),  
par. 2,  
re-enacted

2. taxable services that are described in clause (c) of paragraph 21 of section 1 and that are,

- (a) provided to repair, adjust, restore or maintain real property,
- (b) provided to install tangible personal property that will become real property upon installation,
- (c) provided to maintain, restore or repair tangible personal property where the repairs or repair parts used in the maintenance, restoration or repair may be purchased exempt from tax or where a rebate of the tax paid on those repairs or repair parts is provided under this Act or the regulations,
- (d) provided to repair or recondition tangible personal property purchased for resale by a vendor, or
- (e) provided by a person for his own consumption or use.

- (3) Paragraph 3 of the said subsection 5 (1) is repealed. s. 5 (1),  
par. 3,  
repealed

- (4) Paragraph 14 of the said subsection 5 (1) is repealed and the following substituted therefor: s. 5 (1),  
par. 14,  
re-enacted

14. vehicles that are required to be licensed under the *Highway Traffic Act* and the energy to operate which is either, R.S.O. 1980,  
c. 198

- (a) exclusively electrical energy or energy derived from internal combustion of ethanol, methanol, natural gas or manufactured gas, or
- (b) a combination of such energy with any fuel taxed under the *Gasoline Tax Act*, the *Motor Vehicle Fuel Tax Act* or the *Fuel Tax Act*, 1981. R.S.O. 1980,  
cc. 186, 300;  
1981, c. 59

- (5) Paragraph 15 of the said subsection 5 (1) is amended by inserting after "equipment" in the first line "agricultural products". s. 5 (1),  
par. 15,  
amended

s. 5 (1),  
pars. 16, 21,  
24, repealed

- (6) Paragraphs 16, 21 and 24 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 27,  
re-enacted

- (7) Paragraph 27 of the said subsection 5 (1) is repealed and the following substituted therefor:

27. fire-fighting vehicles, as defined by the Minister, when purchased at a price of more than \$1,000 per vehicle for the exclusive use of a municipality, university, public hospital, local services board or volunteer group.

s. 5 (1),  
pars. 29, 30,  
repealed

- (8) Paragraphs 29 and 30 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 34,  
amended

- (9) Paragraph 34 of the said subsection 5 (1) is amended by striking out "500 tons gross" and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
par. 38,  
re-enacted

- (10) Paragraph 38 of the said subsection 5 (1) is repealed and the following substituted therefor:

38. equipment designed solely for the use of persons who are chronic invalids or physically handicapped.

s. 5 (1),  
par. 45,  
amended

- (11) Clause (e) of paragraph 45 of the said subsection 5 (1) is amended by striking out "a captive balloon with a volume of 150,000 cubic feet or more, or" in the fourth and fifth lines.

s. 5 (1),  
par. 47,  
amended

- (12) Paragraph 47 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the fourth line and inserting in lieu thereof "1,400 cubic metres".

s. 5 (1),  
pars. 48, 49,  
51, 52,  
repealed

- (13) Paragraphs 48, 49, 51 and 52 of the said subsection 5 (1) are repealed.

s. 5 (1),  
par. 53,  
re-enacted

- (14) Paragraph 53 of the said subsection 5 (1) is repealed and the following substituted therefor:

53. books, as defined by the Minister.

s. 5 (1),  
par. 55,  
re-enacted

- (15) Paragraph 55 of the said subsection 5 (1), as amended by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed and the following substituted therefor:

55. magazines, as defined by the Minister, but only where purchased by subscription.

s. 5 (1),  
par. 57,  
repealed

- (16) Paragraph 57 of the said subsection 5 (1) is repealed.

s. 5 (1),  
par. 65,  
re-enacted

- (17) Paragraph 65 of the said subsection 5 (1) is repealed and the following substituted therefor:

65. publications, as defined by the Minister, of a religious, charitable or benevolent organization.

- (18) Paragraph 67 of the said subsection 5 (1) is repealed. s. 5 (1),  
par. 67,  
repealed
  - (19) Paragraph 68 of the said subsection 5 (1), as re-enacted by the Statutes of Ontario, 1981, chapter 38, section 2, is repealed. s. 5 (1),  
par. 68,  
repealed
  - (20) Paragraphs 69 and 72 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 69, 72,  
repealed
  - (21) Paragraph 75 of the said subsection 5 (1) is amended by striking out "500 tons gross" in the second line and inserting in lieu thereof "1,400 cubic metres". s. 5 (1),  
par. 75,  
amended
  - (22) Paragraphs 76, 77, 78, 79, 80, 81 and 82 of the said subsection 5 (1) are repealed. s. 5 (1),  
pars. 76-82,  
repealed
- 4.—(1) Subsection 17 (2) of the said Act is amended by striking out "in such form as the Minister shall prescribe" in the fifth and sixth lines. s. 17 (2),  
amended
- (2) Subsection 17 (3) of the said Act is repealed and the following substituted therefor: s. 17 (3),  
re-enacted
- (3) Every vendor who has failed to collect tax that he is responsible to collect under this Act or the regulations shall pay a penalty, when assessed therefor, equal to the amount of tax that he failed to collect, but where the Minister has assessed such tax against the purchaser from whom it should have been collected, the Minister shall not make an assessment under this subsection against the vendor. Penalty for  
non-collection  
of tax
- (3) Section 17 of the said Act is amended by adding thereto the following subsections: s. 17,  
amended
- (3a) Where the Minister is satisfied that a vendor's failure to collect tax that he is responsible to collect under this Act or the regulations is attributable to neglect, carelessness, wilful default or fraud, he may assess a penalty against such vendor, Penalty for  
wilful non-  
collection  
of tax
- (a) in an amount equal to the greater of \$25 or 25 per cent of the tax that he failed to collect, where a penalty has been assessed against him under subsection (3) in respect of his failure to collect; and
  - (b) in an amount equal to the greater of \$25 or one and one-quarter times the amount of tax that he failed to collect where no penalty has been assessed against him under subsection (3).



Penalty

(5a) Where, under section 16, the Minister has assessed a vendor for tax collected or a purchaser for tax payable, he may further assess such vendor or purchaser a penalty equal to the greater of \$100 or 25 per cent of the tax so assessed under section 16, but no penalty shall be assessed under this subsection unless the Minister is satisfied that the non-compliance with the Act or regulations by such vendor or purchaser that gave rise to the assessment made under section 16 was attributable to neglect, carelessness, wilful default or fraud.

s. 19,  
repealed

**5.** Section 19 of the said Act is repealed.

s. 20,  
amended

**6.** Section 20 of the said Act is amended by adding thereto the following subsection:

Assignment  
of book  
debts

(9) Where accounts receivable of a vendor are assigned under a specific or general assignment of book debts or are transferred in any other manner, any person who collects the amount owing under the accounts receivable that have been assigned or transferred, shall, whether he be any assignee, any person to whom the book debts were transferred, or agent for either of such persons, any liquidator, administrator, receiver, receiver-manager, trustee or like person, collect the tax that is payable under this Act with respect to the sales that gave rise to the accounts receivable that are being collected and that has not been collected by any vendor, and such person shall be deemed to be a vendor under this Act and to hold any tax collected under this Act in trust for Her Majesty in right of Ontario and shall remit any tax collected by him to the Treasurer at the time or times and in such manner as are prescribed by regulation.

s. 23 (5, 6),  
repealed

**7.** Subsections 23 (5) and (6) of the said Act are repealed.

s. 24,  
amended

**8.** Section 24 of the said Act is amended by striking out "under subsection 23 (6)" in the seventh line and inserting in lieu thereof "of appeal".

s. 38,  
amended

**9.** Section 38 of the said Act is amended by adding thereto the following subsection:

Where  
advertised  
price may  
include tax

(2) Notwithstanding subsection (1), the Minister may, where he considers it appropriate, authorize a vendor to advertise or quote a price that includes the tax imposed by this Act but only where the amount or rate of the tax so included is separately specified in such manner as the Minister requires and the Minister may specify such other conditions with respect to the advertisement or quotation that the vendor must satisfy.

s. 45 (3) (d),  
re-enacted

**10.—(1)** Clause 45 (3) (d) of the said Act is repealed and the following substituted therefor:

- (d) prescribing persons or classes of persons with respect to whose consumption of prepared food products no tax is exigible provided that those prepared food products are provided by them without specific charge.

(2) Clauses 45 (3) (*f*) and (*h*) of the said Act are repealed.

s. 45 (3)  
(*f*, *h*),  
repealed

**11.**—(1) This Act, except sections 1, 2, 3, 4, 5 and 10 comes into force on the day it receives Royal Assent.

Commence-  
ment

(2) Subsections 1 (1), (2) and (3), subsection 3 (1), subsections 3 (4) to (22), sections 4 and 5 and subsection 10 (2) shall be deemed to have come into force on the 14th day of May, 1982.

Idem

(3) Subsections 1 (4) and (5), subsections 2 (1) and (2), subsections 3 (2) and (3) and subsection 10 (1) shall be deemed to have come into force on the 14th day of June, 1982.

Idem

(4) Subsection 2 (3) shall be deemed to have come into force on the 14th day of June, 1982 with respect to the occupancy of transient accommodation during a period commencing after the 13th day of June, 1982.

Idem

**12.** The short title of this Act is the *Retail Sales Tax Amendment Act*, 1982.

Short title







An Act to amend the Retail Sales Tax Act

*1st Reading*

May 17th, 1982

*2nd Reading*

June 21st, 1982

*3rd Reading*

July 7th, 1982

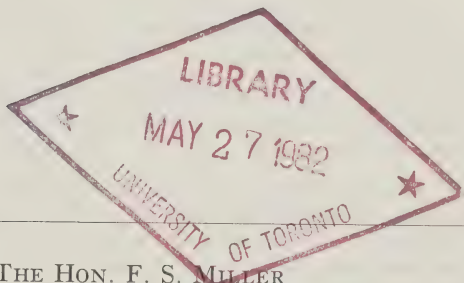
THE HON. G. L. ASHE  
Minister of Revenue

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

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An Act to provide for the Publication of Remuneration paid to  
Officers and Employees of Public Agencies and of Public  
Bodies Substantially Supported by Public Funds



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THE HON. F. S. MILLER  
Treasurer of Ontario and Minister of Economics

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#### EXPLANATORY NOTE

The purpose of the Bill is to enact the proposals contained in the Budget for the annual publication of the names and salaries of those in the broadly-defined public sector of Ontario's economy who earn \$30,000 or more in a year.

In the Bill, "public agency" is defined to include the Crown and its agencies and corporations, municipalities and their agencies and commissions, school boards, colleges and universities, and hospitals. Beginning in 1983, these public agencies will be required to publish statements of those of their officers and employees who, in 1982, earned \$30,000 or more, and for the purpose of comparison, 1981 earnings will also be required to be shown. The information on remuneration paid in the preceding year is to be made available by September 30 in each year from 1983 on.

Provision is made in sections 2 and 3 of the Bill for the public availability of the annual remuneration statement of each public agency and for examination of the statements without charge by the public. Where copies of the statements are requested from a public agency, a reasonable fee may be charged to defray the cost of copying.

The Bill further provides by section 4 that, for a public agency's failure to comply with the Act, an audit and examination of the public agency's records may be authorized to obtain the information for the preparation and publication of a proper annual remuneration statement. The cost of the audit and preparation of the statement is to be borne by the public agency.

BILL 116

1982

**An Act to provide for the Publication of  
Remuneration paid to Officers and Employees  
of Public Agencies and of Public Bodies  
Substantially Supported by Public Funds**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Interpre-  
tation

- (a) “annual remuneration statement” means a written statement of a public agency made as of the end of each year and covering the year so ended and showing within each range of \$10,000 (commencing with the range of \$30,000 to \$40,000 followed consecutively by each higher range for which data exist) the names in alphabetical order of each officer or employee of the public agency whose remuneration for the year is within one of the ranges to be shown in the statement, each such name to be followed by the amount of the remuneration of that officer or employee for the year and by the amount of his or her remuneration for the immediately preceding year;
- (b) “Crown” means the Crown in right of Ontario;
- (c) “officer” includes every person, other than an employee, who holds an office or position in a public agency or is a member of a public agency, and who has been paid any remuneration by a public agency;
- (d) “public agency” includes,
  - (i) the Crown in right of Ontario, every agency thereof, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the Lieuten-

ant Governor in Council or a member of the Executive Council,

R.S.O. 1980,  
c. 303

- (ii) the corporation of every municipality in Ontario, every local board as defined by the *Municipal Affairs Act*, and every authority, board, commission, corporation, office or organization of persons whose members or officers are appointed or chosen by or under the authority of the council of the corporation of a municipality in Ontario,

R.S.O. 1980,  
c. 129

- (iii) every board as defined in the *Education Act*, and every college, university or post-secondary school educational institution in Ontario the majority of the capital or annual operating funds of which are received from the Crown,

R.S.O. 1980,  
c. 410

- (iv) every board as defined in the *Public Hospitals Act*,

- (v) every corporation with share capital, 90 per cent of the issued shares of which are beneficially held by or for a public agency described in subclauses (i) to (iv),

- (vi) every corporation without share capital, the majority of whose members or officers are members of, or are appointed or chosen by or under the authority of, a public agency described in subclauses (i) to (iv), and

- (vii) any authority, board, commission, corporation, office or organization of persons designated by the Lieutenant Governor in Council by regulation as a public agency;

(e) "regulations" means the regulations made under this Act;

(f) "remuneration" means the salary, emoluments or other compensation paid by a public agency to or in respect of an officer or employee thereof, and includes the value of any benefit provided by a public agency that is required to be included in the income of an officer or employee for the purposes of the *Income Tax Act* (Canada), but does not include money paid to reimburse an officer or employee for expenses actually incurred by him in the performance of his duties;

R.S.C. 1952,  
c. 148

(g) "statement year" means, at any particular time, the then latest year as of the end of which an annual remuneration statement was required by subsection 2 (1) to be made available to the public by a public agency;

(h) "year" means the twelve-month period ending on the 31st day of December.

**2.—**(1) Within the nine months following the year 1982, and within the nine months following each subsequent year, every public agency shall, in accordance with this Act and the regulations, make available to the public an annual remuneration statement showing the remuneration paid by the public agency in the immediately preceding year to or in respect of each of the public agency's officers or employees. Remuneration made public

(2) Every public agency shall, in addition to complying with subsection (1) and at the same time as it complies with that subsection, transmit at least five copies of its annual remuneration statement for the statement year to the member of the Executive Council who is responsible for the public agency or for the administration of an Act under or by the authority of which the public agency was created or constituted or derives its principal authority to carry on its activities. Additional copies to be provided

(3) The member of the Executive Council to whom copies of any annual remuneration statement are to be transmitted under subsection (2) or under the regulations shall place two of such copies in such repository as the Clerk of the Assembly directs, to provide access to such copies for the members of the Assembly. Idem

(4) The member of the Executive Council to whom copies of a public agency's annual remuneration statement are to be transmitted under subsection (2) or under the regulations may, in writing and at the request of the public agency, extend to such date as he considers reasonable the time within which the public agency is required by subsections (1) and (2) to make its annual remuneration statement available to the public and to transmit copies thereof to him, but such extension of time shall be granted only where he is satisfied that earlier disclosure of the annual remuneration statement would be prejudicial to the public agency and not in the public interest. Extension of time for compliance

**3.—**(1) The provisions of subsections 2 (2) and (3) shall not be interpreted to restrict the access of the public to the information to be made available under subsection 2 (1), and do not prevent wider distribution of such information than that required by subsections 2 (2) and (3). Public access not restricted



Public  
examination  
of statement

(2) Every public agency shall keep at its principal office legible copies of its annual remuneration statements, and shall, without charge, permit reasonable examination of such statements by any person during the normal office hours of the public agency.

Fees  
chargeable

(3) Subject to subsection (2), a public agency may charge such reasonable fee as is considered proper for the provision to any person of a copy for his own use of the public agency's annual remuneration statement, but no charge shall be made for the copies required to be transmitted under subsection 2 (2) or under the regulations.

Audit and  
examination

4.—(1) Where, without reasonable excuse, a public agency fails to comply fully and effectually with this Act, the member of the Executive Council to whom copies of the public agency's annual remuneration statement are to be transmitted in accordance with subsection 2 (2) or the regulations may, on behalf of the Crown, retain such qualified person or persons as he considers necessary and adequate, and authorize him or them to audit and examine the relevant records, bank accounts and financial information of such public agency and to prepare and make available as he shall direct a proper annual remuneration statement for such public agency for any statement year for which such proper statement is not available.

Assistance  
with audit

(2) Every public agency, and every officer or employee thereof, shall, where an audit and examination is authorized under subsection (1), take all necessary action and make available all necessary facilities to facilitate and promote the accuracy of such audit and examination, and no person shall hinder or obstruct any person authorized under subsection (1) to make an audit or examination.

Cost of  
audit

(3) The proper charges and fees of any person or persons for an audit and examination under subsection (1) and for the preparation of any annual remuneration statement shall be paid out of the Consolidated Revenue Fund and are thereupon a debt due to the Crown from the public agency so audited and examined, and are recoverable by action or otherwise from such public agency.

Consolidation  
of statements

5.—(1) With the approval in writing of the member of the Executive Council to whom their annual remuneration statements are to be transmitted under subsection 2 (2) or the regulations, and subject to such conditions as may be specified in the approval, any two or more public agencies may consolidate their separate annual remuneration statements into one annual remuneration statement where such consolidation would be more economical and efficient, would better suit the organizational

structure and relationship of such public agencies, and would not be contrary to the public interest.

(2) The amount of any remuneration to be shown in an annual remuneration statement may be shown rounded to the nearest whole dollar. Amount may be rounded

**6.—**(1) Her Majesty the Queen in right of Ontario is bound by this Act. Crown to be bound

(2) This Act applies to every past or future enactment notwithstanding any provision in such enactment to the contrary, unless, and then only to the extent that, such enactment expressly provides for the inapplicability of any or all of the provisions of this Act. This Act to prevail

**7.** Notwithstanding section 2, where the salary or wages of an officer or employee of a public agency is paid out of the Consolidated Revenue Fund from money appropriated for such payment, the remuneration of such officers or employees that is to be shown in any annual remuneration statement shall be shown in one annual remuneration statement prepared by the Crown and made available to the public within the time required for the delivery of the public accounts of Ontario for the fiscal year ending next after the statement year for which such annual remuneration statement is made, and the name and amount of remuneration of any person included in the annual remuneration statement prepared under this section need not be shown in the annual remuneration statement of any other public agency. Annual remuneration statement of Crown

**8.** A public agency that has no officers or employees whose remuneration for a statement year is \$30,000 or more is not required to make available an annual remuneration statement for that statement year. Where no statement necessary

**9.** This Act shall be administered by the Treasurer of Ontario and Minister of Economics or such other member of the Executive Council as is designated by the Lieutenant Governor in Council to administer this Act. Administration of Act

**10.** The Lieutenant Governor in Council may by regulation, Regulations

- (a) prescribe information in addition to that specified in this Act that shall be provided by any public agency or class of public agency in an annual remuneration statement;
- (b) prescribe the format, form and manner in which an annual remuneration statement shall be printed or produced;

- (c) designate as a public agency any authority, board, commission, corporation, office or organization of persons;
- (d) prescribe the fees, or method of computation of fees, that may be charged by a public agency for the provision to the public of copies of an annual remuneration statement;
- (e) define any word or expression in this Act that is not already defined, and further define the expressions "officer" and "remuneration" in order to prevent or mitigate the avoidance by any person of the application of this Act to any situation or circumstance to which it is considered this Act should be applicable;
- (f) designate the member of the Executive Council to whom a public agency or class of public agency shall transmit copies of its annual remuneration statement under subsection 2 (2);
- (g) delegate to any person or persons in the public service of Ontario any power or duty conferred or imposed by this Act on any member of the Executive Council;
- (h) alter the amounts of \$30,000 and \$40,000 to such other amounts as are prescribed for the purpose of clause 1 (a) and the application of this Act.

Commence-  
ment

**11.** This Act comes into force on the day it receives Royal Assent.

Short title

**12.** The short title of this Act is the *Public Remuneration Disclosure Act, 1982*.







An Act to provide for the Publication of  
Remuneration paid to Officers and  
Employees of Public Agencies and of Public  
Bodies Substantially Supported by Public  
Funds

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*1st Reading*

May 18th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. F. S. MILLER  
Treasurer of Ontario and  
Minister of Economics

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*(Government Bill)*

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the  
Ontario New Home Warranties Plan Act

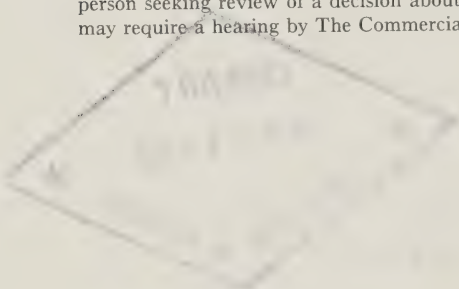


MR. PHILIP

#### EXPLANATORY NOTE

The Bill provides that damages in respect of unfinished work are not excluded from the categories of damage for which compensation may be payable out of H.U.D.A.C.'s guarantee fund.

The Bill also increases, from fifteen to sixty days, the period during which a person seeking review of a decision about compensation made by H.U.D.A.C. may require a hearing by The Commercial Registration Appeal Tribunal.



BILL 117

1982

**An Act to amend the  
Ontario New Home Warranties Plan Act**

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 14 (1) of the *Ontario New Home Warranties Plan Act*, <sup>s. 14 (1),  
amended</sup> being chapter 350 of the Revised Statutes of Ontario, 1980, is amended by adding at the end thereof "but the regulations shall not exclude from the amount payable damages in respect of unfinished work".
2. Subsection 16 (2) of the said Act is amended by striking out <sup>s. 16 (2),  
amended</sup> "fifteen" in the third line and inserting in lieu thereof "sixty".
3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
4. The short title of this Act is the *Ontario New Home Warranties* Short title  
*Plan Amendment Act, 1982*.

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An Act to amend the  
Ontario New Home Warranties Plan Act

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*1st Reading*

May 18th, 1982

*2nd Reading*

*3rd Reading*

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MR. PHILIP

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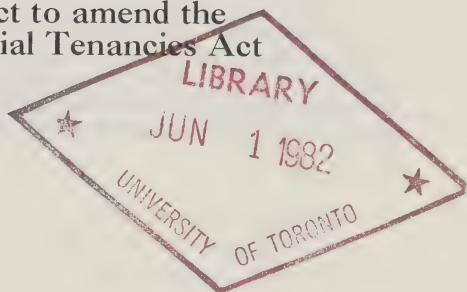
*(Private Member's Bill)*

316  
BILL 118

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the  
Residential Tenancies Act



MR. PHILIP

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill would require that landlords of rental units that are exempt from rent review because they were not occupied before January 1, 1976 or because the monthly rental exceeds \$750 provide prospective tenants with written notice of the exempt status. The consequence of failure to provide notice would be to subject the unit to rent review for a two-year period.

BILL 118

1982

## An Act to amend the Residential Tenancies Act

HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of the Province of Ontario, enacts as  
follows:

1. Section 134 of the *Residential Tenancies Act*, being chapter 452 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:
  - (1a) Where clause (1) (c), (d) or (e) applies to a rental unit, the landlord shall ensure that written notice that the rental unit is so exempt is delivered to the tenant before the tenancy agreement is made. s. 134,  
amended  
  
Notice that  
rental unit  
exempt
  - (1b) Despite subsection (1), where a landlord fails to comply with subsection (1a), this Part applies to the rental unit until the second anniversary of the tenancy agreement or until termination of the tenancy, whichever is earlier. Failure  
to give  
notice
2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is the *Residential Tenancies Amendment Act, 1982*. Short title



An Act to amend the  
Residential Tenancies Act

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*1st Reading*

May 18th, 1982

*2nd Reading*

*3rd Reading*

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MR. PHILIP

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*(Private Member's Bill)*

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Municipal Elections Act

THE HON. C. BENNETT  
Minister of Municipal Affairs and Housing



## EXPLANATORY NOTES

SECTION 1. "Minister" is now defined as the Minister of Intergovernmental Affairs; the amendment reflects the assignment of the administration of the Act to the Minister of Municipal Affairs and Housing by the *Ministry of Municipal Affairs and Housing Act, 1981*.

SECTION 2.—Subsection 1. The proposed re-enactment adds a reference to the poll clerk.

Subsection 2. Section 4 of the Act provides for the appointment of deputy returning officers, poll clerks, election assistants, assistant returning officers and assistant revising officers; the added subsection requires that these appointees be at least 18 years of age.

SECTION 3. Subsection 8 (1) of the Act now reads as follows:

- (1) *Except where otherwise specifically provided by this or any other special or general Act, the cost of an election shall be borne by the municipality in which it is held.*

The amendment will require that the costs of an election be paid on the certificate of the clerk of the responsible municipality.

SECTION 4. Section 16 of the Act now reads as follows:

16. *Every person entitled to be an elector in a municipality under section 12, 13 or 33 is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality.*

The re-enactment is designed to make it clear that a person entitled to be an elector under any provision of the Act is entitled to vote on a money by-law.

SECTION 5. Clauses 36 (1) (b) and (c) of the Act require nomination papers to show the name and address of the person nominated and the names and addresses of the electors signing the papers; the subsection (1a) to be added provides that the address to be shown is to be the address within the municipality of the relevant person.

The new subsection (8) provides that the determination of school support, for nomination paper purposes, is to be in accordance with that shown on the preliminary list of electors delivered to the clerk by the assessment commissioner, as revised up to the time the nomination paper is filed.

BILL 119

1982

## An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1, par. 18,  
re-enacted

18. "Minister" means the Minister of Municipal Affairs and Housing.

- 2.—(1) Subsection 4 (4) of the said Act is repealed and the following substituted therefor: s. 4 (4),  
re-enacted

(4) If a deputy returning officer or a poll clerk through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. Where D.R.O.  
or poll clerk  
unable to  
perform  
duties

- (2) Section 4 of the said Act is amended by adding thereto the following subsection: s. 4,  
amended

(10) No person shall be appointed under this section who has not attained the age of eighteen years. Age of  
persons  
appointed

3. Subsection 8 (1) of the said Act is amended by adding at the end thereof "and all costs shall be paid on certification of the clerk". s. 8 (1),  
amended

4. Section 16 of the said Act is repealed and the following substituted therefor: s. 16,  
re-enacted

16. Every person entitled to be an elector in a municipality is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. Who may  
vote on  
money by-laws

5. Section 36 of the said Act is amended by adding thereto the following subsections: s. 36,  
amended

What address  
to be shown

(1a) The address referred to in clauses (1) (b) and (c) shall be the address within the municipality of the person nominated or the elector signing the nomination paper, as the case may be.

Determination  
of whether  
public or  
separate school  
elector

(8) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list of electors delivered to the clerk under section 22, as revised up to the time the nomination paper is filed.

s. 41 (2),  
re-enacted

- 6.** Subsection 41 (2) of the said Act is repealed and the following substituted therefor:

Notice of  
poll

(2) Notice of the time, and the date for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

s. 42 (4),  
amended

- 7.** Subsection 42 (4) of the said Act is amended by striking out “the municipality shall comply with the provisions of the order” in the fifth and sixth lines and inserting in lieu thereof “the provisions of the order shall be complied with”.

s. 43 (4),  
re-enacted

- 8.** Subsection 43 (4) of the said Act is repealed and the following substituted therefor:

Where  
addresses  
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address, being the qualifying address within the municipality, of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

s. 46 (7, 8),  
re-enacted;  
s. 46 (9-11),  
enacted

- 9.** Subsections 46 (7) and (8) of the said Act are repealed and the following substituted therefor:

Notice of  
date and time  
of polling and  
of location  
of polling  
place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the date and time of polling including advance polls and the location of the polling place in which the elector is to vote,

- (a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the date and time of polling and of the location of such polling place; and

SECTION 6. Subsection 41 (2) of the Act requires the clerk to give notice of the time for holding the poll where one is required; the re-enactment proposed will require the notice to include the day on which the poll is to be held.

SECTION 7. Subsection 42 (4) of the Act now reads as follows:

- (4) Where a municipality authorizes the use of voting machines, voting recorders or other voting devices, the Minister shall, by order, provide for procedures which may be necessary to conduct the election by the use of such machines, recorders or devices and the municipality shall comply with the provisions of the order.*

The amendment provides that not only the affected municipality must comply with the terms of a Minister's order authorizing the use of voting machines or recorders but also any other persons affected thereby.

SECTION 8. The amendment is similar in principle to that contained in section 5 of the Bill. The words "being the qualifying address within the municipality" found in the re-enactment, have been added to subsection 43 (4) of the Act as it now reads.

SECTION 9. Subsections 46 (7) and (8) of the Act now read as follows:

- (7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the location of the polling place in which that elector is to vote,*
- (a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the location of such polling place; and*
- (b) in the case of a non-resident elector, by mailing to the elector a notice of the location of such polling place.*

(8) *Notwithstanding clause (7) (a), the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day in September of an election year, provide that the clerk shall advise each resident elector of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the location of such polling place, which notice shall be directed to all the electors at that address.*

It will be observed that in the proposed re-enactment of those two subsections the notice to be given is to include a reference to the date and time of polling, including advance polls, in addition to the location of the polling place.

Subsections (9), (10) and (11) are new. Subsection (9) requires the clerk of a municipality having not more than 5,000 electors to give the notice described in that subsection. Subsection (10) restrains a municipality from repealing a by-law passed by it under subsection (8) later than the 1st day of September in an election year. Subsection (11) provides for notice to be given by newspaper publication in the event of a disruption of postal service.

SECTION 10. Section 49 of the Act provides, *inter alia*, that a public school elector or a separate school elector may respectively vote on the election of a member to a school board where the members of the board are to be elected by public school electors or by separate school electors, as the case may be.

New subsection (4) proposed to be added provides that the determination of school support for these purposes is to be in accordance with the polling list of electors for each polling subdivision as prepared and certified by the clerk after all applications for revision of the preliminary list have been determined.

SECTION 11. Section 57 of the Act now reads as follows:

57. *Where an elector entitled to vote at a polling place applies for a ballot paper and it appears that another person has voted as such elector or that an entry has been made in the polling list in error that such elector has polled his vote, if such person takes an oath in the prescribed form and otherwise establishes his identity to the satisfaction of the deputy returning officer he is entitled to receive a ballot paper.*

The words proposed by the amendment to be added at the end require the D.R.O. to enter on the polling list the name and address of an elector who has voted after another person has apparently voted as that elector.

SECTION 12.—Subsection 1. The clause to be repealed refers to the placing in the ballot box by the D.R.O. of a declaration that, by reason of an earlier amendment to the Act, is no longer required to be taken.



- (b) in the case of a non-resident elector, by mailing to the elector a notice of the date and time of polling and of the location of such polling place.

(8) Notwithstanding clause (7) (a), the council of a municipality having more than 5,000 electors may, by by-law passed not later than the 1st day of September in an election year, provide that the clerk shall advise each resident elector of the date and time of polling, including advance polls, and of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the date and time of polling and of the location of such polling place, which notice shall be directed to all the electors at that address. Idem

(9) In municipalities having not more than 5,000 electors, the clerk shall post a notice in two conspicuous places within the municipality and, where there is a newspaper having general circulation in the municipality, publish a notice once in the newspaper, advising the date and time of polling including advance polls and the location of the polling places. Idem

(10) A by-law passed under subsection (8) shall remain in effect until repealed but shall not be repealed in an election year later than the 1st day of September. Repeal of by-law

(11) Where, by reason of a disruption in mail delivery service, it is not possible to comply with subsection (7) or (8), the clerk shall publish a notice at least once in a newspaper having general circulation in the municipality advising the date and time of polling, including advance polls, and the location of the polling place in which each elector is to vote. Where postal service disrupted

- 10.** Section 49 of the said Act is amended by adding thereto the following subsection: s. 49, amended

(4) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list certified under section 31. Determination of whether public or separate school elector

- 11.** Section 57 of the said Act is amended by adding at the end thereof "and the deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of such elector". s. 57, amended

- 12.—**(1) Clause 78 (1) (d) of the said Act is repealed. s. 78 (1) (d), repealed

- (2) Subsection 78 (2) of the said Act is repealed and the following substituted therefor: s. 78 (2), re-enacted

Box to be  
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.

s. 78 (4),  
amended

(3) Subsection 78 (4) of the said Act is amended by inserting after “shall” in the eleventh line “except where otherwise directed by the clerk”.

s. 80 (2),  
re-enacted

**13.** Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Opening  
box when  
documents  
omitted from  
or placed in  
box in error,  
etc.

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, or where the clerk considers it necessary to ascertain the meaning of a statement, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

s. 83,  
amended

**14.** Section 83 of the said Act is amended by adding thereto the following subsection:

Determination  
by judge of  
ballot boxes  
to be opened

(2a) Where an application is made under subsection (2), the judge may determine which ballot boxes shall be opened for the purpose of the recount.

s. 96,  
amended

**15.** Section 96 of the said Act is amended by striking out “\$1,000” in the eighth line and inserting in lieu thereof “\$2,000”.

s. 97,  
amended

**16.** Section 97 of the said Act is amended by striking out “\$1,000” in the thirteenth line and inserting in lieu thereof “\$2,000”.

s. 98,  
amended

**17.** Section 98 of the said Act is amended by striking out “\$1,000” in the fourth line and inserting in lieu thereof “\$2,000”.

s. 99,  
amended

**18.** Section 99 of the said Act is amended by striking out “\$1,000” in the fourth line and inserting in lieu thereof “\$2,000”.

s. 100,  
amended

**19.** Section 100 of the said Act is amended by striking out “\$1,000” in the twentieth line and inserting in lieu thereof “\$2,000”.

s. 101,  
amended

**20.** Section 101 of the said Act is amended by striking out “\$1,000” in the fourth line and inserting in lieu thereof “\$2,000”.

s. 102,  
amended

**21.** Section 102 of the said Act is amended by striking out “\$1,000” in the seventh line and inserting in lieu thereof “\$2,000”.

SUBSECTION 2.—Subsection 78 (2) of the Act as it is proposed to be re-enacted is set out below showing underlined the words to be added:

(2) *The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.*

SUBSECTION 3. The amendment is similar to that set out in subsection (2) above, and relates to the delivery of the ballot box to the clerk by the poll clerk or some person chosen by the D.R.O. where he is unable to do so owing to illness or other cause.

SECTION 13. The proposed re-enactment of subsection 80 (2) of the Act adds “or where the clerk considers it necessary to ascertain the meaning of a statement” to the grounds on which the clerk may open a ballot box.

SECTION 14. Section 83 of the Act sets out the procedure on a recount before a county court judge. The subsection to be added empowers the judge conducting the recount to determine which of the ballot boxes need to be re-opened for the purpose.

SECTIONS 15 to 22. These penalty provisions are amended to increase the maximum fine in each case to \$2,000.

SECTION 23. The general offence provision of the Act is broadened to include a reference to an order of the Minister authorizing the use of voting machines or recorders: see also the explanatory note to section 7 of the Bill.

SECTION 24.—Subsection 1. A reference is added to section 121 of the Act in relation to the imposition of penalties on a person found to have committed a corrupt practice, complementary to section 18 of the Bill.

Subsection 2. Complementary to section 17 of the Bill, normally an action as to whether any person is guilty of a corrupt practice may not be commenced later than ninety days after polling day.

SECTION 25. Section 121 of the Act now reads as follows:

*121. The council of a municipality may by by-law provide for limitations on elections expenditures by or on behalf of a candidate and require the disclosure by a candidate of all election contributions to his campaign in excess of \$100 in the form of money and goods and services.*

As re-enacted, the section will authorize cities, towns, villages, townships and The Regional Municipality of Niagara to, by by-law, regulate election contributions to, and require the reporting of expenses and contributions by, candidates for office on their respective councils. Where a by-law is passed it must contain the provisions mentioned in subsection (2). Any person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and, in addition to any other penalty or order the court may make when it determines a person has committed a corrupt practice, is liable to a fine of up to \$2,000.

**22.** Subsection 103 (1) of the said Act is amended by striking out all that part of the subsection immediately following clause (i) and inserting in lieu thereof “is guilty of bribery, and on conviction is liable to a fine of \$2,000, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years”.

s. 103 (1),  
amended

**23.** Section 104 of the said Act is repealed and the following substituted therefor:

s. 104,  
re-enacted

104. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided, or who contravenes an order of the Minister made under section 42, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

General  
offence

**24.—**(1) Subsection 106 (2) of the said Act is amended by adding at the end thereof “and section 121”.

s. 106 (2),  
amended

(2) Section 106 of the said Act is amended by adding thereto the following subsection:

s. 106,  
amended

(5) Notwithstanding subsection (4), an action may be commenced as to whether or not any person is guilty of a corrupt practice in respect of the contravention of a by-law passed under section 121, not later than the expiration of 180 days following the date of the election referred to in subsection (1).

Idem

**25.** Section 121 of the said Act is repealed and the following substituted therefor:

s. 121,  
re-enacted

121.—(1) In this section,

Interpre-  
tation

(a) “candidate” does not include a candidate nominated for election to office as a member of a local board or as a trustee of a police village;

(b) “contributions” do not include any goods produced by voluntary unpaid labour or any services performed by an individual voluntarily for a candidate without compensation from any source;

(c) “municipality”, in addition to the meaning set out in section 1, includes The Regional Municipality of Niagara;

(d) “person” includes a trade union, a corporation and an association;

(e) “spouse” means either of a man and woman who,

- (i) are married to each other, or
- (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
- (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
- (iv) not being married to each other have cohabited,
  - (A) continuously for a period of not less than five years, or
  - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,
 and have so cohabited within the preceding year.

By-law  
regulating  
election  
contributions,  
etc.

(2) The council of a municipality may pass a by-law regulating election contributions and requiring the reporting of expenses and contributions and, where a by-law is passed under this section, the by-law shall,

- (a) prohibit any person from making contributions in excess of \$500 in the form of money, goods or services to any candidate in any calendar year;
- (b) prohibit any candidate from accepting contributions in the form of money, goods or services in excess of \$500 from any person in any calendar year;
- (c) require a candidate or his representative to issue a receipt for all money contributions received by him;
- (d) require a candidate to keep a record of all expenses incurred by him in respect of his candidacy;
- (e) require a candidate to keep a record of all contributions received by him in respect of his candidacy, whether in the form of money, goods or services;
- (f) require candidates to file with the clerk of the municipality within ninety days of the date of the election a report which shall contain,



- (i) a statement of the total amount of money contributions received by the candidate in respect of his candidacy up to the date of such report,
  - (ii) a list of contributions in the form of goods or services and the value thereof received by the candidate in respect of his candidacy up to the date of such report,
  - (iii) the name, address and contribution of each person who, up to the date of such report, made a contribution whether in the form of money, goods or services of more than \$100, and
  - (iv) an itemized list of all expenses incurred by the candidate in respect of his candidacy up to the date of such report;
- (g) direct the clerk to submit to the council the information received by him pursuant to a by-law passed under this section; and
- (h) empower the clerk to prescribe forms for the purposes of a by-law passed under this section.

(3) Any moneys to be used for an election campaign by a candidate out of his own funds or out of the funds of the spouse of the candidate shall be deemed not to be a contribution for the purposes of a by-law passed under this section. Candidate's funds deemed not contribution

(4) A contribution made to a representative of a candidate shall be deemed to be a contribution to the candidate. Contributions to candidate's representative

(5) Every person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and is liable to a fine of not more than \$2,000. Contravention of by-law

**26.** This Act comes into force on the day it receives Royal Assent. Commencement

**27.** The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title







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An Act to amend the  
Municipal Elections Act

---

*1st Reading*

May 20th, 1982

*2nd Reading*

*3rd Reading*

---

THE HON. C. BENNETT  
Minister of Municipal Affairs and Housing

---

*(Government Bill)*

**BILL 119**

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY  
2

**An Act to amend the Municipal Elections Act**

THE HON. C. BENNETT  
Minister of Municipal Affairs and Housing





BILL 119

1982

## An Act to amend the Municipal Elections Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraph 18 of section 1 of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1, par. 18,  
re-enacted

18. "Minister" means the Minister of Municipal Affairs and Housing.

- 2.—(1) Subsection 4 (4) of the said Act is repealed and the following substituted therefor: s. 4 (4),  
re-enacted

(4) If a deputy returning officer or a poll clerk through illness or for any other reason becomes unable to perform his duties on polling day, the clerk shall appoint another person to act in his place. Where D.R.O.  
or poll clerk  
unable to  
perform  
duties

- (2) Section 4 of the said Act is amended by adding thereto the following subsection: s. 4,  
amended

(10) No person shall be appointed under this section who has not attained the age of eighteen years. Age of  
persons  
appointed

3. Subsection 8 (1) of the said Act is amended by adding at the end thereof "and all costs shall be paid on certification of the clerk". s. 8 (1),  
amended

4. Section 16 of the said Act is repealed and the following substituted therefor: s. 16,  
re-enacted

16. Every person entitled to be an elector in a municipality is entitled to be an elector to vote on a money by-law submitted for the assent of the electors of the municipality. Who may  
vote on  
money by-laws

5. Section 36 of the said Act is amended by adding thereto the following subsections: s. 36,  
amended

What address  
to be shown

(1a) The address referred to in clauses (1) (b) and (c) shall be the address within the municipality of the person nominated or the elector signing the nomination paper, as the case may be.

Determination  
of whether  
public or  
separate school  
elector

(8) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list of electors delivered to the clerk under section 22, as revised up to the time the nomination paper is filed.

s. 41 (2),  
re-enacted

- 6.** Subsection 41 (2) of the said Act is repealed and the following substituted therefor:

Notice of  
poll

(2) Notice of the time, and the date for the holding of the poll in an election, including the advance poll, and notice of the last day for making application to the clerk for a certificate to vote by proxy, shall be given by the clerk forthwith after it has been determined that a poll is required, by posting the notice in at least two conspicuous places in the municipality, and, where there is a newspaper having general circulation in the municipality, by publishing the notice in such newspaper.

s. 42 (4),  
amended

- 7.** Subsection 42 (4) of the said Act is amended by striking out “the municipality shall comply with the provisions of the order” in the fifth and sixth lines and inserting in lieu thereof “the provisions of the order shall be complied with”.

s. 43 (4),  
re-enacted

- 8.** Subsection 43 (4) of the said Act is repealed and the following substituted therefor:

Where  
addresses  
to be shown

(4) Where there are two or more candidates for election to an office whose given and surnames are identical or so nearly identical as to create the possibility of confusion, the address, being the qualifying address within the municipality, of all candidates for election to such office shall be shown on the face of the ballot for such office immediately under their names and in sufficient detail as to identify each candidate.

s. 46 (7, 8),  
re-enacted;  
s. 46 (9-11),  
enacted

- 9.** Subsections 46 (7) and (8) of the said Act are repealed and the following substituted therefor:

Notice of  
date and time  
of polling and  
of location  
of polling  
place

(7) In municipalities having more than 5,000 electors, the clerk shall advise each elector of the date and time of polling including advance polls and the location of the polling place in which the elector is to vote,

- (a) in the case of a resident elector, by mailing or causing to be delivered to the elector a notice of the date and time of polling and of the location of such polling place; and



- (b) in the case of a non-resident elector, by mailing to the elector a notice of the date and time of polling and of the location of such polling place.

(8) Notwithstanding clause (7) (a), the council of a municipal- <sup>Idem</sup>ity having more than 5,000 electors may, by by-law passed not later than the 1st day of September in an election year, provide that the clerk shall advise each resident elector of the date and time of polling, including advance polls, and of the location of the polling place at which that elector is to vote by mailing or causing to be delivered to the address of the elector a notice of the date and time of polling and of the location of such polling place, which notice shall be directed to all the electors at that address.

(9) In municipalities having not more than 5,000 electors, the <sup>Idem</sup> clerk shall post a notice in two conspicuous places within the municipality and, where there is a newspaper having general circulation in the municipality, publish a notice once in the newspaper, advising the date and time of polling including advance polls and the location of the polling places.

(10) A by-law passed under subsection (8) shall remain in <sup>Repeal of</sup> effect until repealed but shall not be repealed in an election year <sup>by-law</sup> later than the 1st day of September.

(11) Where, by reason of a disruption in mail delivery service, <sup>Where postal service disrupted</sup> it is not possible to comply with subsection (7) or (8), the clerk shall publish a notice at least once in a newspaper having general circulation in the municipality advising the date and time of polling, including advance polls, and the location of the polling place in which each elector is to vote.

- 10.** Section 49 of the said Act is amended by adding thereto the following subsection: <sup>s. 49, amended</sup>

(4) For the purposes of this section, the determination as to whether an elector is a public school elector or a separate school elector shall be in accordance with the support indicated on the list certified under section 31. <sup>Determination of whether public or separate school elector</sup>

- 11.** Section 57 of the said Act is amended by adding at the end thereof <sup>s. 57, amended</sup> “and the deputy returning officer shall enter or cause to be entered on the polling list maintained by the poll clerk the name and address of such elector”.

- 12.—**(1) Clause 78 (1) (d) of the said Act is repealed. <sup>s. 78 (1) (d), repealed</sup>

- (2) Subsection 78 (2) of the said Act is repealed and the following substituted therefor: <sup>s. 78 (2), re-enacted</sup>

Box to be  
locked, etc.

(2) The deputy returning officer shall then lock and seal the ballot box and, except where otherwise directed by the clerk, forthwith deliver it and the documents enumerated in subsection (1) personally to the clerk.

s. 78 (4),  
amended

(3) Subsection 78 (4) of the said Act is amended by inserting after "shall" in the eleventh line "except where otherwise directed by the clerk".

s. 80 (2),  
re-enacted

**13.** Subsection 80 (2) of the said Act is repealed and the following substituted therefor:

Opening  
box when  
documents  
omitted from  
or placed in  
box in error,  
etc.

(2) Where the documents specified in subsection 78 (1) are in error omitted from or placed in the ballot box, or where the clerk considers it necessary to ascertain the meaning of a statement, the clerk may open such ballot box or boxes in the presence of the deputy returning officer concerned, and having corrected the error or after having recovered or ascertained the meaning of the statement, as the case may be, the box shall be resealed by the deputy returning officer in the presence of the clerk and by the clerk.

s. 83,  
amended

**14.** Section 83 of the said Act is amended by adding thereto the following subsection:

Determination  
by judge of  
ballot boxes  
to be opened

(2a) Where an application is made under subsection (2), the judge may determine which ballot boxes shall be opened for the purpose of the recount.

s. 96,  
amended

**15.** Section 96 of the said Act is amended by striking out "\$1,000" in the eighth line and inserting in lieu thereof "\$2,000".

s. 97,  
amended

**16.** Section 97 of the said Act is amended by striking out "\$1,000" in the thirteenth line and inserting in lieu thereof "\$2,000".

s. 98,  
amended

**17.** Section 98 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 99,  
amended

**18.** Section 99 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 100,  
amended

**19.** Section 100 of the said Act is amended by striking out "\$1,000" in the twentieth line and inserting in lieu thereof "\$2,000".

s. 101,  
amended

**20.** Section 101 of the said Act is amended by striking out "\$1,000" in the fourth line and inserting in lieu thereof "\$2,000".

s. 102,  
amended

**21.** Section 102 of the said Act is amended by striking out "\$1,000" in the seventh line and inserting in lieu thereof "\$2,000".

**22.** Subsection 103 (1) of the said Act is amended by striking out all that part of the subsection immediately following clause (i) and inserting in lieu thereof “is guilty of bribery, and on conviction is liable to a fine of \$2,000, or to imprisonment for a term of not more than six months, or to both, and is disqualified from voting at any election for four years”.

s. 103 (1),  
amended

**23.** Section 104 of the said Act is repealed and the following substituted therefor:

s. 104,  
re-enacted

104. Every person who contravenes any of the provisions of this Act for which contravention no penalty is otherwise provided, or who contravenes an order of the Minister made under section 42, is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

General  
offence

**24.—**(1) Subsection 106 (2) of the said Act is amended by adding at the end thereof “and section 121”.

s. 106 (2),  
amended

(2) Section 106 of the said Act is amended by adding thereto the following subsection:

s. 106,  
amended

(5) Notwithstanding subsection (4), an action may be commenced as to whether or not any person is guilty of a corrupt practice in respect of the contravention of a by-law passed under section 121, not later than the expiration of 180 days following the date of the election referred to in subsection (1).

Idem

**25.** Section 121 of the said Act is repealed and the following substituted therefor:

s. 121,  
re-enacted

121.—(1) In this section,

Interpre-  
tation

(a) “candidate” does not include a candidate nominated for election to office as a member of a local board or as a trustee of a police village;

(b) “contributions” do not include any goods produced by voluntary unpaid labour or any services performed by an individual voluntarily for a candidate without compensation from any source;

(c) “municipality”, in addition to the meaning set out in section 1, includes The Regional Municipality of Niagara;

(d) “person” includes a trade union, a corporation and an association;

(e) “spouse” means either of a man and woman who,

- (i) are married to each other, or
- (ii) are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, or
- (iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year, or
- (iv) not being married to each other have cohabited,
  - (A) continuously for a period of not less than five years, or
  - (B) in a relationship of some permanence where there is a child born of whom they are the natural parents,
 and have so cohabited within the preceding year.

By-law  
regulating  
election  
contributions,  
etc.

(2) The council of a municipality may pass a by-law regulating election contributions and requiring the reporting of expenses and contributions and, where a by-law is passed under this section, the by-law shall,

- (a) prohibit any person from making contributions in excess of \$500 in the form of money, goods or services to any candidate in any calendar year;
- (b) prohibit any candidate from accepting contributions in the form of money, goods or services in excess of \$500 from any person in any calendar year;
- (c) require a candidate or his representative to issue a receipt for all money contributions received by him;
- (d) require a candidate to keep a record of all expenses incurred by him in respect of his candidacy;
- (e) require a candidate to keep a record of all contributions received by him in respect of his candidacy, whether in the form of money, goods or services;
- (f) require candidates to file with the clerk of the municipality within ninety days of the date of the election a report which shall contain,

- (i) a statement of the total amount of money contributions received by the candidate in respect of his candidacy up to the date of such report,
  - (ii) a list of contributions in the form of goods or services and the value thereof received by the candidate in respect of his candidacy up to the date of such report,
  - (iii) the name, address and contribution of each person who, up to the date of such report, made a contribution whether in the form of money, goods or services of more than \$100, and
  - (iv) an itemized list of all expenses incurred by the candidate in respect of his candidacy up to the date of such report;
- (g) direct the clerk to submit to the council the information received by him pursuant to a by-law passed under this section; and
- (h) empower the clerk to prescribe forms for the purposes of a by-law passed under this section.

(3) Any moneys to be used for an election campaign by a candidate out of his own funds or out of the funds of the spouse of the candidate shall be deemed not to be a contribution for the purposes of a by-law passed under this section. Candidate's funds deemed not contribution

(4) A contribution made to a representative of a candidate shall be deemed to be a contribution to the candidate. Contributions to candidate's representative

(5) Every person who contravenes the provisions of a by-law passed under this section is guilty of a corrupt practice and is liable to a fine of not more than \$2,000. Contravention of by-law

**26.** This Act comes into force on the day it receives Royal Assent. Commencement

**27.** The short title of this Act is the *Municipal Elections Amendment Act, 1982*. Short title









An Act to amend the  
Municipal Elections Act

---

*1st Reading*

May 20th, 1982

*2nd Reading*

July 5th, 1982

*3rd Reading*

July 6th, 1982

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THE HON. C. BENNETT  
Minister of Municipal Affairs and Housing

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## BILL 120

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

## An Act to amend the Certification of Titles Act

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★ THE HON. R. G. ELGIE ★  
Minister of Consumer and Commercial Relations  
UNIVERSITY OF TORONTO

TORONTO

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#### EXPLANATORY NOTES

SECTION 1. It is proposed that The Certification of Titles Assurance Fund be combined with The Land Titles Assurance Fund. The amendment to the definition of "assurance fund" reflects the proposed change.

SECTION 2. The Act will be divided into three parts. The existing sections 3 to 9 which relate to certification of titles by application will form Part I of the Act.

SECTION 3. The amendment clarifies that section 9 applies only to Part I of the Act.

SECTION 4. The proposed Part II authorizes the Director of Titles to certify the title to existing plans of subdivision as of the date of registration of the plan. The Director will be authorized to issue certificates on his own initiative and without holding a hearing if he is satisfied that the person who signed the plan as owner was the owner of the lands on the day the plan was registered. A certificate issued under this Part will eliminate the need for title searchers to search behind plans when searching title.

The Director will be authorized to hold hearings if he considers it necessary. Procedures similar to those for hearings under Part I will apply to hearings under Part II.

A person wrongfully deprived of land as a result of the operation of Part II will have the same rights against the assurance fund as a person who is wrongfully deprived of land under Part I.

BILL 120

1982

## An Act to amend the Certification of Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Certification of Titles Act*, being chapter 61 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:
 

(a) "assurance fund" means The Land Titles Assurance Fund formed under section 57 of the *Land Titles Act*. s. 1 (a),  
re-enacted  
R.S.O. 1980,  
c. 230
2. The said Act is amended by inserting after section 3 the following: Heading  
inserted

### PART I

#### CERTIFICATION ON APPLICATION

3. Section 9 of the said Act is amended by inserting after "examination" in the first line "under this Part". s. 9,  
amended
4. The said Act is further amended by adding thereto the following Part: Part II,  
(ss. 9a-9c)  
enacted

### PART II

#### CERTIFICATION OF EXISTING PLANS

9a. In this Part, "plan" means a plan of subdivision registered under the *Registry Act*. Interpretation  
R.S.O. 1980,  
c. 445

9b.—(1) The Director may, of his own initiative and without holding a hearing, certify the title of the owner of land included in a plan, as of the date of registration of the plan. Certification  
of plans

(2) Before certifying the title of any land under this Part, the Director shall examine the title to the land and satisfy himself Duty of  
Director

that the person to be named in the certificate of title as owner was the owner of the land for which the certificate of title is to be issued, as of the date of registration of the plan.

Hearings  
authorized

(3) Notwithstanding subsection (1), the Director may, for the purposes of complying with subsection (2), hold such hearings as he considers necessary, including hearings to determine the validity of any interest in the land of any person that appears to conflict with that of the person who signed the plan as owner, and, where the Director holds a hearing, the parties to the proceeding shall be such persons as are named in the notice of hearing.

Notice

(4) A notice of a hearing under subsection (3) shall be served on the persons named in the notice and on every person or person of a class designated by the regulations and where the hearing is to determine the validity of an interest in the land of a person that appears to conflict with that of the person who signed the plan as owner, the notice is sufficiently served if it is sent by registered mail addressed to the person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

R.S.O. 1980,  
cc. 230, 445

Reference  
to a judge

(5) The Director, instead of holding a hearing under subsection (3), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the matter referred to him on the evidence before him or may direct the trial of an issue.

Copies to  
be sent to  
interested  
parties

(6) Where the Director makes a decision under subsection (3), a copy of the decision shall be sent by first class mail or delivered by the Director to the parties to the proceeding and to every person who received notice of the hearing and appeared at the hearing.

Appeals

(7) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (3).

Disposition

9c.—(1) When the Director has complied with subsection 9b (2) and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land included in the plan.

Omission of  
discharged  
claims

(2) Where the Director is satisfied that a claim or interest that existed on the day the plan was registered has expired or has been



SECTION 5. Sections 10 to 15 will form Part III of the Act and will contain general provisions related to the certification of titles.

SECTION 6. The change in wording clarifies that the person named in a certificate of title was the owner as of the time set out in the certificate.

SECTION 7. The mandatory payment into the assurance fund will be eliminated and The Certification of Titles Assurance Fund and The Land Titles Assurance Fund will be combined into one fund. The re-enacted subsection 12 (1) has the same effect as the present subsection 12 (8). The proposed subsection 12 (2) ensures the continued effectiveness of bonds and covenants previously given.

SECTION 8. The proposed subsection 13 (3) provides that the procedures established under the *Land Titles Act* for applying for compensation out of the assurance fund apply to claims under the *Certification of Titles Act*.

SECTION 9. The proposed section 13*a* will enable the Director to register a notice on title if he becomes aware of a possible error in a certificate of title.

The proposed section 13*b* provides a mechanism for the correction of errors in certificates of title and is similar in effect to section 157 of the *Land Titles Act*.



discharged or for any other reason no longer affects the land, the Director may omit the claim or interest from the certificate of title.

5. The said Act is further amended by inserting before section 10 the following: Heading inserted

## PART III

### GENERAL

6. Section 11 of the said Act is amended by striking out “is” in the fourth line and inserting in lieu thereof “was”. s. 11, amended

- 7.—(1) Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) The Director may require an applicant under Part I to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper. Indemnification of assurance fund

(2) Every bond and covenant to indemnify The Certification of Titles Assurance Fund given under a predecessor of subsection (1) shall be deemed to be a bond or covenant, as the case may be, to indemnify the assurance fund. Previous bonds and covenants

(2) The Accountant of the Supreme Court shall, as soon as practicable after this Act receives Royal Assent, Transfer of funds

(a) refund to an applicant all amounts paid after the 28th day of February, 1982 by the applicant under subsection 12 (2) of the *Certification of Titles Act* as that subsection read on that day; and R.S.O. 1980, c. 61

(b) after deducting an amount sufficient to pay the refunds required by clause (a), transfer the amount standing to the credit of The Certification of Titles Assurance Fund to The Land Titles Assurance Fund Account.

8. Subsections 13 (3) to (10) of the said Act are repealed and the following substituted therefor: s. 13 (3), re-enacted;  
s. 13 (4-10), repealed

(3) Section 26, subsections 60 (5) to (12), section 61 and subsection 161 (3) of the *Land Titles Act* apply, with necessary modifications, to claims for compensation under this section. Applications for compensation  
R.S.O. 1980, c. 230

9. The said Act is further amended by adding thereto the following sections: ss. 13a, 13b, enacted

Notice of  
possible  
error

13a. Where the Director becomes aware of a possible error in a certificate of title, he may give notice of the possible error by registering a notice in the prescribed form and the notice gives notice of the possible error to all persons until the notice is deleted from the abstract index by the Director.

Amendment of  
certificates

13b.—(1) Subject to the regulations, the Director of his own initiative or on the application of any interested person may, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and omissions in any certificate of title by issuing an amendment to the certificate of title.

Idem

(2) The Director shall, in correcting a certificate of title, correct it in the manner that he considers will do the least possible injury to any person affected by the correction.

Copies of  
decision

(3) Where the Director makes a decision under subsection (1),

(a) on the application of an interested person; or

(b) after notifying the interested persons,

a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and the persons who received the notice.

Appeals

(4) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (1).

Registration of  
amendment

(5) An amendment to a certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate.

Effect of  
registration

(6) Upon registration under subsection (5), an amendment to a certificate of title takes effect in accordance with the terms set out in the amendment and is conclusive that every notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act.

Claim against  
fund

(7) A person injuriously affected by an amendment to a certificate of registration is entitled to recover what is just by way of compensation out of the assurance fund under section 13, as if he were a person wrongfully deprived of an interest in land.

s. 15,  
amended

**10.** Section 15 of the said Act is amended by adding thereto the following clause:

(aa) designating persons or classes of persons to whom notice of a hearing under subsection 9b (3) shall be

SECTION 10. The proposed amendment to section 15 provides additional regulation-making powers and is complementary to the proposed subsection 9*b* (4).



given and specifying the manner in which notice may be given.

Commence-  
ment

**11.**—(1) This Act, except sections 1, 7 and 8, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 1, 7 and 8 shall be deemed to have come into force on the 1st day of March, 1982.

Short title

**12.** The short title of this Act is the *Certification of Titles Amendment Act, 1982*.

An Act to amend the  
Certification of Titles Act

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*1st Reading*

May 20th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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# BILL 120

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act to amend the Certification of Titles Act

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations







BILL 120

1982

## An Act to amend the Certification of Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (a) of the *Certification of Titles Act*, being chapter 61 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 1 (a),  
re-enacted

(a) "assurance fund" means The Land Titles Assurance Fund formed under section 57 of the *Land Titles Act*. R.S.O. 1980,  
c. 230

2. The said Act is amended by inserting after section 3 the following: Heading  
inserted

### PART I

#### CERTIFICATION ON APPLICATION

3. Section 9 of the said Act is amended by inserting after "examination" in the first line "under this Part". s. 9,  
amended
4. The said Act is further amended by adding thereto the following Part: Part II,  
(ss. 9a-9c)  
enacted

### PART II

#### CERTIFICATION OF EXISTING PLANS

9a. In this Part, "plan" means a plan of subdivision registered under the *Registry Act*. Interpretation  
R.S.O. 1980,  
c. 445

9b.—(1) The Director may, of his own initiative and without holding a hearing, certify the title of the owner of land included in a plan, as of the date of registration of the plan. Certification  
of plans

(2) Before certifying the title of any land under this Part, the Director shall examine the title to the land and satisfy himself Duty of  
Director

that the person to be named in the certificate of title as owner was the owner of the land for which the certificate of title is to be issued, as of the date of registration of the plan.

Hearings  
authorized

(3) Notwithstanding subsection (1), the Director may, for the purposes of complying with subsection (2), hold such hearings as he considers necessary, including hearings to determine the validity of any interest in the land of any person that appears to conflict with that of the person who signed the plan as owner, and, where the Director holds a hearing, the parties to the proceeding shall be such persons as are named in the notice of hearing.

Notice

R.S.O. 1980,  
cc. 230, 445

(4) A notice of a hearing under subsection (3) shall be served on the persons named in the notice and on every person or person of a class designated by the regulations and where the hearing is to determine the validity of an interest in the land of a person that appears to conflict with that of the person who signed the plan as owner, the notice is sufficiently served if it is sent by registered mail addressed to the person at the address furnished under section 166 of the *Land Titles Act* or section 37 of the *Registry Act*, or where no such address has been furnished, addressed to the solicitor whose name appears on the registered instrument by which that person appears to have an interest.

Reference  
to a judge

(5) The Director, instead of holding a hearing under subsection (3), may refer the matter to a judge of the county or district court of the county or judicial district in which the land is situate, or of such other county or judicial district as the parties agree to, who shall hear and determine the matter referred to him on the evidence before him or may direct the trial of an issue.

Copies to  
be sent to  
interested  
parties

(6) Where the Director makes a decision under subsection (3), a copy of the decision shall be sent by first class mail or delivered by the Director to the parties to the proceeding and to every person who received notice of the hearing and appeared at the hearing.

Appeals

(7) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (3).

Disposition

9c.—(1) When the Director has complied with subsection 9b (2) and any matter referred to a judge is finally disposed of, or where a hearing has been held and the Director has made his decision and any appeal therefrom has been disposed of, or where the time for appeal has elapsed and no appeal has been taken, the Director may issue a certificate of title to all or part of the land included in the plan.

Omission of  
discharged  
claims

(2) Where the Director is satisfied that a claim or interest that existed on the day the plan was registered has expired or has been

discharged or for any other reason no longer affects the land, the Director may omit the claim or interest from the certificate of title.

5. The said Act is further amended by inserting before section 10 the following: Heading inserted

### PART III

#### GENERAL

6. Section 11 of the said Act is amended by striking out “is” in the fourth line and inserting in lieu thereof “was”. s. 11, amended

- 7.—(1) Section 12 of the said Act is repealed and the following substituted therefor: s. 12, re-enacted

12.—(1) The Director may require an applicant under Part I to indemnify the assurance fund against loss by a bond or covenant in the prescribed form, either with or without sureties or by such other security as he considers proper. Indemnification of assurance fund

(2) Every bond and covenant to indemnify The Certification of Titles Assurance Fund given under a predecessor of subsection (1) shall be deemed to be a bond or covenant, as the case may be, to indemnify the assurance fund. Previous bonds and covenants

(2) The Accountant of the Supreme Court shall, as soon as practicable after this Act receives Royal Assent, Transfer of funds

(a) refund to an applicant all amounts paid after the 28th day of February, 1982 by the applicant under subsection 12 (2) of the *Certification of Titles Act* as that subsection read on that day; and R.S.O. 1980, c. 61

(b) after deducting an amount sufficient to pay the refunds required by clause (a), transfer the amount standing to the credit of The Certification of Titles Assurance Fund to The Land Titles Assurance Fund Account.

8. Subsections 13 (3) to (10) of the said Act are repealed and the following substituted therefor: s. 13 (3), re-enacted; s. 13 (4-10), repealed

(3) Section 26, subsections 60 (5) to (12), section 61 and subsection 161 (3) of the *Land Titles Act* apply, with necessary modifications, to claims for compensation under this section. Applications for compensation R.S.O. 1980, c. 230

9. The said Act is further amended by adding thereto the following sections: ss. 13a, 13b, enacted

Notice of  
possible  
error

13a. Where the Director becomes aware of a possible error in a certificate of title, he may give notice of the possible error by registering a notice in the prescribed form and the notice gives notice of the possible error to all persons until the notice is deleted from the abstract index by the Director.

Amendment of  
certificates

13b.—(1) Subject to the regulations, the Director of his own initiative or on the application of any interested person may, before the receipt of any conflicting instruments or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and omissions in any certificate of title by issuing an amendment to the certificate of title.

Idem

(2) The Director shall, in correcting a certificate of title, correct it in the manner that he considers will do the least possible injury to any person affected by the correction.

Copies of  
decision

(3) Where the Director makes a decision under subsection (1),

(a) on the application of an interested person; or

(b) after notifying the interested persons,

a copy of the decision shall be sent by first class mail or delivered by the Director to the applicant and the persons who received the notice.

Appeals

(4) Subsections 7 (2), (3) and (4) apply to a decision of the Director made under subsection (1).

Registration of  
amendment

(5) An amendment to a certificate of title shall be registered by the Director in the land registry office for the registry division in which the land is situate.

Effect of  
registration

(6) Upon registration under subsection (5), an amendment to a certificate of title takes effect in accordance with the terms set out in the amendment and is conclusive that every notice, publication, proceeding and act that ought to have been made, given or done has been made, given or done in accordance with this Act.

Claim against  
fund

(7) A person injuriously affected by an amendment to a certificate of registration is entitled to recover what is just by way of compensation out of the assurance fund under section 13, as if he were a person wrongfully deprived of an interest in land.

s. 15,  
amended

**10.** Section 15 of the said Act is amended by adding thereto the following clause:

(aa) designating persons or classes of persons to whom notice of a hearing under subsection 9b (3) shall be

given and specifying the manner in which notice may be given.

- |                   |   |
|-------------------|---|
| Commence-<br>ment | <b>11.</b> —(1) This Act, except sections 1, 7 and 8, comes into force on the day it receives Royal Assent. |
| Idem              | (2) Sections 1, 7 and 8 shall be deemed to have come into force on the 1st day of March, 1982.              |
| Short title       | <b>12.</b> The short title of this Act is the <i>Certification of Titles Amendment Act, 1982</i> .          |

An Act to amend the  
Certification of Titles Act

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*1st Reading*

May 20th, 1982

*2nd Reading*

June 29th, 1982

*3rd Reading*

June 30th, 1982

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THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

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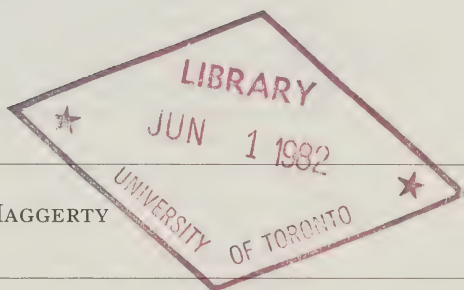
**BILL 121**

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

**An Act to amend the Workmen's Compensation Act**

MR. HAGGERTY



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to broaden the criteria used by the Workmen's Compensation Board in assessing the impairment of earning capacity resulting from an injury that causes permanent disability. The Act currently states that the impairment of earning capacity shall be estimated from the nature and degree of the injury. The Board is authorized under the Act to compile a rating schedule of percentages of impairment of earning capacity for specified injuries that may be used as a guide in determining the compensation payable in permanent disability cases. The Bill repeals the provision that authorizes the Board to compile a rating schedule and directs the Board to estimate the impairment of earning capacity in light of all the circumstances of each individual case.

BILL 121

1982

## An Act to amend the Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Subsection 43 (1) of the *Workmen's Compensation Act*, being <sup>s. 43 (1),</sup> chapter 539 of the Revised Statutes of Ontario, 1980 is <sup>re-enacted</sup> repealed and the following substituted therefor:

(1) Where permanent disability results from the injury, the impairment of earning capacity of the employee shall be estimated in light of all the circumstances of the particular case, and the compensation shall be a weekly or other periodical payment during the lifetime of the employee, or such other period as the Board may fix, of a sum proportionate to such impairment not exceeding in any case the like proportion of 75 per cent of his average weekly earnings during the twelve months immediately preceding the accident or such lesser period as he has been employed.

(1a) In considering the circumstances of the case, the Board shall have particular regard to, <sup>Considerations</sup>

- (a) the extent of the physical disability;
- (b) the age of the employee;
- (c) the level of skills and education achieved by the employee;
- (d) the language spoken by the employee;
- (e) any emotional problems suffered by the employee as a result of the injury;
- (f) the state of the employment market, both generally and in the local community in which the employee resides;
- (g) the potential for the employee to rehabilitate himself through vocational rehabilitation;

- (h) any other factor that is relevant to determining the employee's ability to earn income after the accident in comparison with the employee's ability to earn income before the accident.

s. 43 (3),  
repealed

(2) Subsection 43 (3) of the said Act is repealed.

s. 43 (5),  
repealed

(3) Subsection 43 (5) of the said Act is repealed.

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*.









An Act to amend the  
Workmen's Compensation Act

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*1st Reading*

May 20th, 1982

*2nd Reading*

*3rd Reading*

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MR. HAGGERTY

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*(Private Member's Bill)*

## BILL 122

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

## An Act to provide for Class Actions

MR. SWART



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of this Bill is to provide a statutory procedure whereby one or more persons may sue a defendant in the form of a class action.

The Bill is designed to achieve this purpose by permitting a person who wishes to sue on behalf of a class to apply for a court order authorizing the class action. Once the order is obtained, the action proceeds as a class action, and the final judgment binds all members of the class, except those who have been excluded, as well as the parties to the action.

BILL 122

1982

## An Act to provide for Class Actions

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act, "Court" means the Supreme Court of Ontario. Interpretation

2.—(1) Where a person has a cause of action involving questions of law or fact that are common to a class of persons, he may commence the action as representative party on behalf of the class. Class action

(2) An action under subsection (1) shall not be maintained as a class action unless the person or persons suing as representative party has obtained an order of the Court permitting the action to proceed as a class action. Order required

3.—(1) A representative party may apply to the Court for an order referred to in section 2, and the Court may make the order where it is satisfied that, Where order to be granted

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and
- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court shall not refuse to make an order under this section on the ground only that, Where order not to be denied

- (a) the relief claimed in the action includes a claim for damages;
- (b) the relief claimed in the action arises out of or relates to separate contracts or transactions made with or entered into between members of the class and the defendant; or
- (c) any damages claimed for members of the class will require individual action.

Content  
of order

(3) An order under subsection (1) shall,

- (a) define the class on whose behalf the claim is brought;
- (b) describe briefly the nature of the claim made and of the relief sought;
- (c) state the questions of law or fact that are common to the class; and
- (d) specify a date before which members of the class may exclude themselves from the class.

Variation  
of order

(4) An order made under this section may be varied from time to time or rescinded by the Court if it thinks it fit and just to do so before judgment in the action.

Notice of  
class action

**4.—**(1) Where an order is made under section 3, the Court may direct that notice in manner and form satisfactory to the Court be given to the members of the class or any of them advising them of the proceedings and of the date before which members of the class may exclude themselves from the class.

Statement  
of desire  
for exclu-  
sion from  
the class

(2) Where a person has notice that he is a member of a class on behalf of which a representative party is suing he shall be excluded from the class by filing with the Court a statement of his desire to be excluded, in writing signed by him prior to the date specified in the order under section 3, and may be excluded, in the discretion of the Court, where the statement is filed subsequent to the date specified in the order and prior to judgment.

Judgment

**5.—**(1) The judgment in a class action constitutes a final judgment between each member of the class who was not excluded under section 4 and each person against whom the class action was taken in respect of those matters set out in the order under section 3.

(2) Notwithstanding anything in subsection (1), the Court <sup>Idem</sup> may provide in the judgment for subsequent determination of the amount of compensation for loss or damage suffered by members of the class or any other issues.

**6.** An action maintained as a class action shall not be discontinued, settled or dismissed for want of prosecution without the approval of the Court, and, if the Court determines that the interests of the class may be substantially affected by such discontinuance, settlement or dismissal, the Court may direct that notice in manner, form and content satisfactory to the Court shall be given. <sup>Discontinuance, settlement, etc.</sup>

**7.** This Act comes into force on the day it receives Royal <sup>Commencement</sup> Assent.

**8.** The short title of this Act is the *Class Actions Act, 1982*. <sup>Short title</sup>







An Act to provide for Class Actions

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*1st Reading*

May 21st, 1982

*2nd Reading*

*3rd Reading*

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MR. SWART

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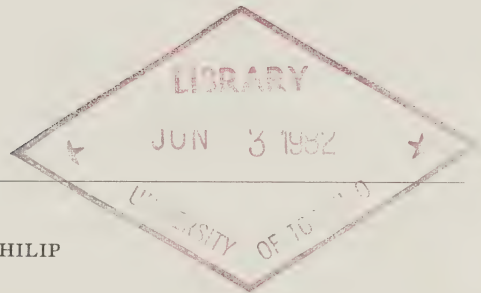
*(Private Member's Bill)*

BILL 123

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the Assessment Act



MR. PHILIP

TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The purpose of the Bill is to exempt home improvements from assessment under the *Assessment Act* if the improvements do not enlarge the living space of the home and if the cost of materials for the improvements does not exceed \$10,000.

BILL 123

1982

## An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 3 of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following paragraph:
  22. Improvements made to residential premises by an owner, for the period of time that the owner owns the premises, if the improvements do not enlarge the living space and the cost of materials for the improvements does not exceed \$10,000.
2. This Act comes into force on the day it receives Royal Assent.
3. The short title of this Act is the *Assessment Amendment Act, 1982*.

s. 3,  
amendedResidential  
improvementsCommence-  
ment

Short title

An Act to amend the Assessment Act

*1st Reading*

May 21st, 1982

*2nd Reading*

*3rd Reading*

MR. PHILIP

*(Private Member's Bill)*

## BILL 124

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act to establish Technology Centres

THE HON. G. W. WALKER  
Minister of Industry and Trade



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



#### EXPLANATORY NOTE

The Bill provides for the creation of technology centres whose mandate is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce.



BILL 124

1982

## An Act to establish Technology Centres

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Board" means the Board of Directors of a Centre;
- (b) "Centre" means a corporation established under section 3;
- (c) "industrial property" means a patent of invention, copyright, industrial design or other intellectual or industrial property right, whether existing within or outside Ontario, and includes an application and a right to make an application for industrial property;
- (d) "Minister" means the Minister of Industry and Trade or such other member of the Executive Council as the Lieutenant Governor in Council designates to administer this Act.

**2.** The *Corporations Act* does not apply to a Centre.

R.S.O. 1980,  
c. 95  
does not apply

**3.—(1)** The Lieutenant Governor in Council may make regulations,

Creation of  
Centres

- (a) establishing corporations without share capital as Centres;
- (b) subject to this Act, providing for the constitutions, management and operation of Centres;
- (c) specifying the industrial, commercial or technological sector or sectors in which a Centre shall pursue its object;

(d) governing transfers of the assets, rights, obligations and liabilities of Centres to Her Majesty in right of Ontario or to an agency of the Crown;

(e) requiring the approval of the Lieutenant Governor in Council to the exercise of any or all of the powers of any Centre;

(f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, or to implement the object of Centres.

Sunset  
provisions

(2) Where the Lieutenant Governor in Council establishes a Centre under clause (1) (a), the Lieutenant Governor in Council shall prescribe its operational period.

Idem

(3) The Lieutenant Governor in Council may by regulation extend the operational period of a Centre from time to time.

Winding up

(4) A Centre shall be wound up at the expiry of its operational period or extended operational period, as the case may be, and in winding up the assets of the Centre shall be,

(a) liquidated or sold as a going concern and the proceeds paid into the Consolidated Revenue Fund; or

(b) transferred to Her Majesty in right of Ontario or to an agency of the Crown,

as the Minister may direct.

Board of  
Directors

4.—(1) A Centre shall have a Board of Directors consisting of not fewer than five and not more than fifteen members who shall be appointed by the Lieutenant Governor in Council for a term of not more than three years.

Idem

(2) The Lieutenant Governor in Council shall designate one of the directors as Chairman of the Board.

Remuneration

(3) A Centre may pay those of its directors who are not officers in the public service of Ontario such remuneration and expense allowance as is fixed from time to time by the Lieutenant Governor in Council.

Members not  
disqualified  
R.S.O. 1980,  
c. 235

(4) Despite the *Legislative Assembly Act*, a member of the Assembly who is appointed a director of a Centre is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

(5) Where a vacancy occurs on the Board, the Lieutenant Governor in Council may appoint a person to serve the remainder of the term. Vacancies

**5.**—(1) The Chairman shall preside at all meetings of a Board and, in the Chairman's absence or if the office of Chairman is vacant, a director present at the meeting who is chosen to act by the directors present at the meeting has all the powers and duties of the Chairman. Chairman

(2) A Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Centre. By-laws

(3) A by-law or resolution in writing signed by all the directors of a Centre is as valid as if it had been passed at a meeting of the Board. Idem

**6.** Upon consultation with a Board, the Minister shall appoint a chief executive officer of the Centre who shall have such powers and duties as the Minister and the Board prescribe from time to time. Chief executive officer

**7.** The affairs of a Centre shall be managed and supervised by its Board, in accordance with the policies of the Government of Ontario relating to technology and innovation, but the Board shall comply with any directions given to it from time to time in writing by the Lieutenant Governor in Council or the Minister. Duties of Board

**8.** A Centre shall indemnify a director or officer of the Centre, a former director or officer of the Centre, and such person's heirs and legal representatives, against any liability arising from the person's performance of his or her duties if the person acted honestly and in good faith with a view to the best interests of the Centre. Indemnification of directors and officers

**9.**—(1) The object of each Centre is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce. Object

(2) A Centre, for the object set out in subsection (1), may, Powers

- (a) adapt and demonstrate technology applicable to industry and commerce;
- (b) disseminate and encourage the dissemination of technical and market information;
- (c) acquire, develop and deal with industrial property, licences, inventions, processes and the royalties and benefits that arise therefrom;

- (d) advise the Minister on issues related to the application of technology and the granting of assistance to promote the application of technology;
- (e) buy, hold, own, hire, maintain, control, take, lease, sell, assign, exchange, transfer, manage, improve, develop or otherwise deal in and dispose of, either absolutely or by way of security or otherwise, any property real and personal and any right or privilege that, in the opinion of the Board, is necessary or convenient for the purposes of the Centre;
- (f) draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading and other negotiable or transferable instruments;
- (g) temporarily invest any surplus moneys not immediately required for the object of the Centre in,
  - (i) securities issued by or guaranteed as to principal and interest by the Province of Ontario, any other province of Canada, or Canada,
  - (ii) guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*,
  - (iii) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by a bank named in Schedule A or B to the *Bank Act* (Canada), and
  - (iv) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*;
- (h) contract and sue and be sued in its own name;
- (i) carry on its affairs or identify itself to the public under a name and style other than its corporate name;
- (j) enter into partnership or into any arrangement for profit sharing, union of interest, co-operation, joint venture, reciprocal concession or any similar arrangement with any person carrying on or engaged in any business or transaction that the Centre is authorized to carry on or engage in or that is capable of being carried on or engaged in so as to further the object of the Centre;

R.S.O. 1980,  
c. 249

1980-81,  
c. 40 (Can.)

R.S.O. 1980,  
c. 102

- (k) do anything incidental or conducive to the attainment of the object of the Centre, whether similar in nature to the powers enumerated in clauses (a) to (j) or otherwise.

**10.**—(1) No act of a Centre, including any transfer of property to or by a Centre, is invalid by reason only that the act is not authorized by this Act. Rights preserved

(2) No person is affected by or is deemed to have notice of the contents of a document concerning a Centre by reason only that the document is available to the public. No deemed notice

(3) A Centre or a guarantor of an obligation of a Centre may not assert against a person dealing with the Centre or with a person who has acquired rights from the Centre that, Indoor management rule

(a) this Act, an order in council, a direction of the Lieutenant Governor in Council or the Minister, the policies of the Government of Ontario, or the by-laws of the Centre have not been complied with;

(b) a person held out by a Centre as a director, an officer or an agent of a Centre has not been duly appointed or has no authority to exercise the powers and perform the duties that are the customary business of the Centre or usual for such director, officer or agent;

(c) a document issued by any director, officer or agent of a Centre with actual or usual authority to issue the document is not valid or not genuine,

except where the person has or ought to have, by virtue of a position with or relationship to the Centre, knowledge to that effect.

**11.**—(1) A Centre may engage such persons as are considered necessary from time to time for the proper conduct of the affairs of the Centre. Staff

(2) A Centre may make use of such services and facilities, including the services of a public servant on secondment, as are provided to it by a ministry, board, commission or agency of the Government of Ontario. Use of Government facilities

**12.**—(1) A Centre shall have a seal, which shall be adopted by a resolution or by-law of the Board. Seal

(2) The fiscal year of a Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal year



- Annual report      **13.**—(1) A Centre shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Centre signed by the chairman of the Board and one other director, and the Minister shall submit the report to the Lieutenant Governor in Council.
- Additional reports      (2) In addition to making an annual report under subsection (1), a Centre shall promptly upon request deliver to the Minister such other reports on its affairs as the Minister from time to time may require.
- Contents of annual report      (3) At least in every second annual report made under subsection (1), a Centre shall report to the Minister on whether or not it should continue in existence.
- Idem      (4) Subject to subsection 3 (2), where a Centre reports under subsection (3) that it should not continue in existence, it shall also recommend the most expeditious means by which its business and affairs may be terminated.
- Audit      **14.** The accounts and financial transactions of a Centre shall be audited annually by the Provincial Auditor, and reports of the audit shall be made to the Centre and to the Minister.
- Crown agency  
R.S.O. 1980,  
c. 106      **15.** A Centre is a Crown agency within the meaning of the *Crown Agency Act*.
- Commence-  
ment      **16.** This Act comes into force on the day it receives Royal Assent.
- Short title      **17.** The short title of this Act is the *Technology Centres Act*, 1982.









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An Act to establish Technology Centres

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*1st Reading*

May 25th, 1982

*2nd Reading*

*3rd Reading*

---

THE HON. G. W. WALKER  
Minister of Industry and Trade

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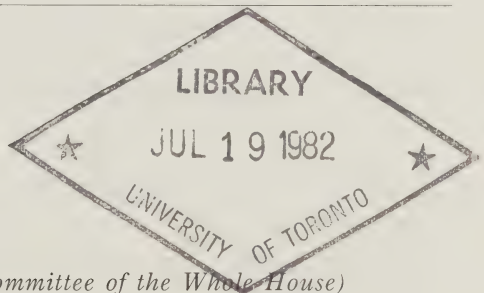
*(Government Bill)*

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to establish Technology Centres

THE HON. G. W. WALKER  
Minister of Industry and Trade



*(Reprinted as amended by the Committee of the Whole House)*

#### EXPLANATORY NOTE

The Bill provides for the creation of technology centres whose mandate is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce.



BILL 124

1982

## An Act to establish Technology Centres

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**1.** In this Act,

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- (a) "Board" means the Board of Directors of a Centre;
- (b) "Centre" means a corporation established under section 3;
- (c) "industrial property" means a patent of invention, copyright, industrial design or other intellectual or industrial property right, whether existing within or outside Ontario, and includes an application and a right to make an application for industrial property;
- (d) "Minister" means the Minister of Industry and Trade or such other member of the Executive Council as the Lieutenant Governor in Council designates to administer this Act.

**2.** The *Corporations Act* does not apply to a Centre.

R.S.O. 1980,  
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**3.—(1)** The Lieutenant Governor in Council may make regulations, Creation of  
Centres

- (a) establishing corporations without share capital as Centres;
- (b) subject to this Act, providing for the constitutions, management and operation of Centres;
- (c) specifying the industrial, commercial or technological sector or sectors in which a Centre shall pursue its object;



- (d) governing transfers of the assets, rights, obligations and liabilities of Centres to Her Majesty in right of Ontario or to an agency of the Crown;
- (e) requiring the approval of the Lieutenant Governor in Council to the exercise of any or all of the powers of any Centre;
- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act, or to implement the object of Centres.

Sunset provisions

(2) Where the Lieutenant Governor in Council establishes a Centre under clause (1) (a), the Lieutenant Governor in Council shall prescribe its operational period.

Idem

(3) The Lieutenant Governor in Council may by regulation extend the operational period of a Centre from time to time.

Winding up

(4) A Centre shall be wound up at the expiry of its operational period or extended operational period, as the case may be, and in winding up the assets of the Centre shall be,

- (a) liquidated or sold as a going concern and the proceeds paid into the Consolidated Revenue Fund; or
- (b) transferred to Her Majesty in right of Ontario or to an agency of the Crown,

as the Minister may direct.

Board of Directors

4.—(1) A Centre shall have a Board of Directors consisting of not fewer than five and not more than fifteen members who shall be appointed by the Lieutenant Governor in Council for a term of not more than three years.

Idem

(2) The Lieutenant Governor in Council shall designate one of the directors as Chairman of the Board.

Remuneration

(3) A Centre may pay those of its directors who are not officers in the public service of Ontario such remuneration and expense allowance as is fixed from time to time by the Lieutenant Governor in Council.

Members not disqualified  
R.S.O. 1980,  
c. 235

(4) Despite the *Legislative Assembly Act*, a member of the Assembly who is appointed a director of a Centre is not thereby rendered ineligible as a member of the Assembly or disqualified from sitting or voting in the Assembly.

(5) Where a vacancy occurs on the Board, the Lieutenant Governor in Council may appoint a person to serve the remainder of the term. Vacancies

**5.—**(1) The Chairman shall preside at all meetings of a Board and, in the Chairman's absence or if the office of Chairman is vacant, a director present at the meeting who is chosen to act by the directors present at the meeting has all the powers and duties of the Chairman. Chairman

(2) A Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Centre. By-laws

(3) A by-law or resolution in writing signed by all the directors of a Centre is as valid as if it had been passed at a meeting of the Board. Idem

**6.** Upon consultation with a Board, the Minister shall appoint a chief executive officer of the Centre who shall have such powers and duties as the Minister and the Board prescribe from time to time. Chief executive officer

**7.** The affairs of a Centre shall be managed and supervised by its Board, in accordance with the policies of the Government of Ontario relating to technology and innovation, but the Board shall comply with any directions given to it from time to time in writing by the Lieutenant Governor in Council or the Minister. Duties of Board

**8.** A Centre shall indemnify a director or officer of the Centre, a former director or officer of the Centre, and such person's heirs and legal representatives, against any liability arising from the person's performance of his or her duties if the person acted honestly and in good faith with a view to the best interests of the Centre. Indemnification of directors and officers

**9.—**(1) The object of each Centre is to promote and enhance the application of technology in order to improve the productivity and competitiveness of Ontario industry and commerce. Object

(2) A Centre, for the object set out in subsection (1), may, Powers

- (a) adapt and demonstrate technology applicable to industry and commerce;
- (b) disseminate and encourage the dissemination of technical and market information;
- (c) acquire, develop and deal with industrial property, licences, inventions, processes and the royalties and benefits that arise therefrom;

- (d) advise the Minister on issues related to the application of technology and the granting of assistance to promote the application of technology;
- (e) buy, hold, own, hire, maintain, control, take, lease, sell, assign, exchange, transfer, manage, improve, develop or otherwise deal in and dispose of, either absolutely or by way of security or otherwise, any property real and personal and any right or privilege that, in the opinion of the Board, is necessary or convenient for the purposes of the Centre;
- (f) draw, make, accept, endorse, discount, execute and issue bills of exchange, promissory notes, bills of lading and other negotiable or transferable instruments;
- (g) temporarily invest any surplus moneys not immediately required for the object of the Centre in,
  - (i) securities issued by or guaranteed as to principal and interest by the Province of Ontario, any other province of Canada, or Canada,
  - (ii) guaranteed investment certificates of any trust company that is registered under the *Loan and Trust Corporations Act*,
  - (iii) deposit receipts, deposit notes, certificates of deposits, acceptances and other similar instruments issued or endorsed by a bank named in Schedule A or B to the *Bank Act* (Canada), and
  - (iv) term deposits accepted by a credit union as defined in the *Credit Unions and Caisses Populaires Act*;
- (h) contract and sue and be sued in its own name;
- (i) carry on its affairs or identify itself to the public under a name and style other than its corporate name;
- (j) enter into partnership or into any arrangement for profit sharing, union of interest, co-operation, joint venture, reciprocal concession or any similar arrangement with any person carrying on or engaged in any business or transaction that the Centre is authorized to carry on or engage in or that is capable of being carried on or engaged in so as to further the object of the Centre;

R.S.O. 1980,  
c. 249

1980-81,  
c. 40 (Can.)

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c. 102

- (k) do anything incidental or conducive to the attainment of the object of the Centre, whether similar in nature to the powers enumerated in clauses (a) to (j) or otherwise.

**10.**—(1) No act of a Centre, including any transfer of property to or by a Centre, is invalid by reason only that the act is not authorized by this Act. Rights preserved

(2) No person is affected by or is deemed to have notice of the contents of a document concerning a Centre by reason only that the document is available to the public. No deemed notice

(3) A Centre or a guarantor of an obligation of a Centre may not assert against a person dealing with the Centre or with a person who has acquired rights from the Centre that, Indoor management rule

(a) this Act, an order in council, a direction of the Lieutenant Governor in Council or the Minister, the policies of the Government of Ontario, or the by-laws of the Centre have not been complied with;

(b) a person held out by a Centre as a director, an officer or an agent of a Centre has not been duly appointed or has no authority to exercise the powers and perform the duties that are the customary business of the Centre or usual for such director, officer or agent;

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(2) A Centre may make use of such services and facilities, including the services of a public servant on secondment, as are provided to it by a ministry, board, commission or agency of the Government of Ontario. Use of Government facilities

**12.**—(1) A Centre shall have a seal, which shall be adopted by a resolution or by-law of the Board. Seal

(2) The fiscal year of a Centre begins on the 1st day of April in each year and ends on the 31st day of March in the following year. Fiscal year

Annual  
report

**13.**—(1) A Centre shall, after the close of each fiscal year, deliver to the Minister an annual report upon the affairs of the Centre signed by the chairman of the Board and one other director, and the Minister shall submit the report to the Lieutenant Governor in Council.

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 **14.** The Minister shall, after the close of each fiscal year, submit to the Lieutenant Governor in Council an annual report upon the affairs of the Centres, which shall include their audited financial statements, and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 

Audit

**15.** The accounts and financial transactions of a Centre shall be audited annually, and reports of the audit shall be made to the Centre and to the Minister.

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R.S.O. 1980,  
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**17.** This Act comes into force on the day it receives Royal Assent.

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**18.** The short title of this Act is the *Technology Centres Act*, 1982.









An Act to establish Technology Centres

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*1st Reading*

May 25th, 1982

*2nd Reading*

June 30th, 1982

*3rd Reading*

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THE HON. G. W. WALKER  
Minister of Industry and Trade

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*(Reprinted as amended by the Committee  
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# BILL 124

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act to establish Technology Centres

THE HON. G. W. WALKER  
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PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO



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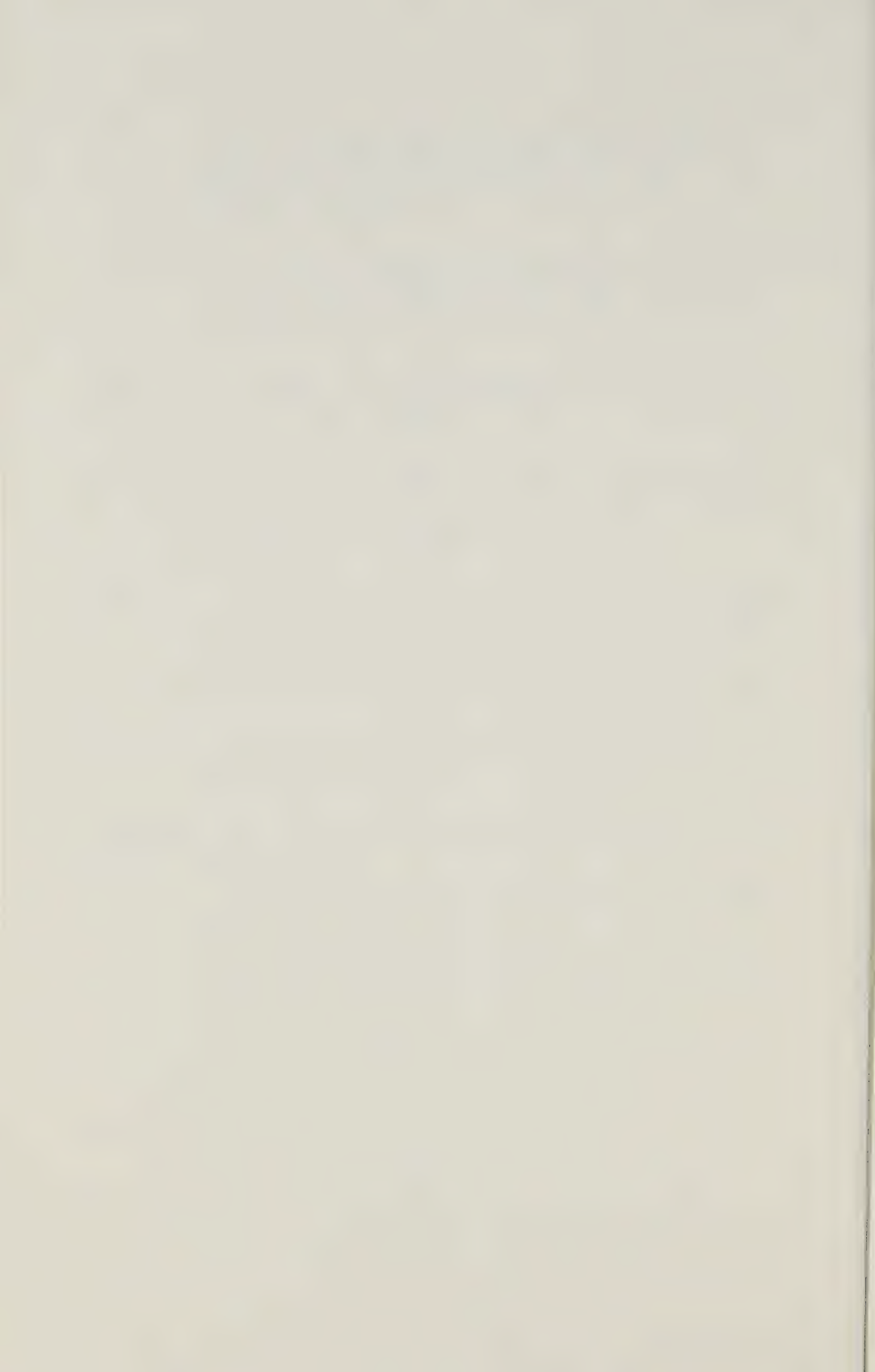
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An Act to establish Technology Centres

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*1st Reading*

May 25th, 1982

*2nd Reading*

June 30th, 1982

*3rd Reading*

July 6th, 1982

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THE HON. G. W. WALKER  
Minister of Industry and Trade

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**BILL 125**

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to amend the Children's Law Reform Act**

THE HON. R. MCMURTRY  
Attorney General



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

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#### EXPLANATORY NOTE

The Bill adds Part III to the Act. This new Part deals with custody of and access to children. The Part also deals with guardianship of property of children and incorporates the Convention on the Civil Aspects of International Child Abduction.

BILL 125

1982

## An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part: Act,  
amended

### PART III

#### CUSTODY, ACCESS AND GUARDIANSHIP

##### INTERPRETATION

18.—(1) In this Part,

Inter-  
pre-  
ta-  
tion

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child.

(2) A reference in this Part to a child is a reference to the child while a minor. Child

## Purposes

## 19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

## CUSTODY AND ACCESS

Father and  
mother  
entitled to  
custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights  
and  
responsi-  
bilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child, including,

- (a) the right to care and control of the child;
- (b) the right to direct the education and moral and religious training of the child,

in the best interests of the child.

Authority  
to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where  
parents  
separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

(5) The entitlement to access to a child includes the right to make reasonable inquiries and to be given information as to the health, education and welfare of the child. Access includes certain information

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21.—(1) A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

(2) No proceeding under this Part shall be commenced in a provincial court (family division) until after a date to be named by proclamation of the Lieutenant Governor. Exception

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

- (a) with both parents;
- (b) where the parents are living separate and apart, with one parent under a separation agreement or with the implied consent of the other or under a court order; or
- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

Serious  
harm  
to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
  - (i) the child remains in the custody of the person legally entitled to custody of the child,
  - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
  - (iii) the child is removed from Ontario.

Merits of  
application  
for custody  
or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

Best  
interests  
of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
  - (i) each person entitled to or claiming custody of or access to the child,
  - (ii) other members of the child's family who reside with the child, and



- (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;
- (c) the length of time the child has lived in a stable home environment;
- (d) the capacity and disposition of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of any proposed custodial home as a family unit; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the capacity of the person to act as a parent of a child. Past conduct

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. Declining jurisdiction

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. Delay

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. Directions

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. Early date



Effect of  
divorce  
proceedings  
R.S.C. 1970,  
c. D-8

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court.

#### CUSTODY AND ACCESS—ORDERS

Powers  
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order  
varying  
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

#### CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment  
of needs of  
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When  
order  
may be  
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement  
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent  
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance  
for  
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal  
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection (7) is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection (1). Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection (1) does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

31.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection (1) unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of  
mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of  
report

(4) Before entering into mediation on the matter, the parties shall decide whether,

- (a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or
- (b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of  
report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).

Copies of  
report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions  
made in  
the course  
of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).

Fees and  
expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem,  
proportions  
or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem,  
serious  
financial  
hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official  
Guardian's  
report

32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the *Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.

R.S.O. 1980,  
c. 258

Further  
evidence

33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before

making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so Cost of obtaining evidence acting against one or more of the parties to the application or may deal with such cost as costs in the cause.

34.—(1) Where the Attorney General receives from an extra- Referral to court provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court.

(2) A court to which a request is referred by the Attorney Obtaining evidence General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request.

#### CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a Supervision of custody or access child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body.

(2) A court shall not direct a person, a children's aid society or Consent to act other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor.

36. Upon application, a court may make an order restraining Order restraining harassment any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate.

37.—(1) Where a court is satisfied upon application by a person Order where child unlawfully withheld in whose favour an order has been made for custody of or access to

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to  
locate and  
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application  
without  
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to  
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and  
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time.

Expiration  
of order

(7) An order made under subsection (2) expires six months after the day on which it was made, unless the order specifically provides otherwise.



(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time.

When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3).

Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3).

Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following:

Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3).

Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate.

Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order.

Safekeeping

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to  
locate and  
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application  
without  
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to  
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and  
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between sunrise and sunset unless the court, in the order, authorizes entry and search at another time.

Expiration  
of order

(7) An order made under subsection (2) expires six months after the day on which it was made, unless the order specifically provides otherwise.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time.

When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3).

Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3).

Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following:

Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3).

Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate.

Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order.

Safekeeping



## Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt  
of orders  
of provincial  
court (family  
division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions  
of  
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information  
as to  
address

40.—(1) Where, upon application to a court, it appears to the court that,

(a) for the purpose of bringing an application in respect of custody or access under this Part; or

(b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

## Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance  
with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section  
binds Crown

(4) This section binds the Crown in right of Ontario.

## CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim  
powers of  
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario;  
or
- (b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

- 1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
- 2. Stay the application subject to,
  - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
  - ii. such other conditions as the court considers appropriate.
- 3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement  
of foreign  
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

(e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of  
recognition  
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting  
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further  
orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding  
order,  
material  
change in  
circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

(a) the child is habitually resident in Ontario at the commencement of the application for the order; or

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,

(iii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iv) that the child has a real and substantial connection with Ontario, and

(v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining  
jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if,

Superseding  
order,  
serious  
harm

- (a) the child remains in the custody of the person legally entitled to custody of the child;
- (b) the child is returned to the custody of the person entitled to custody of the child; or
- (c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person.

True copy  
of extra-  
provincial  
order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal.

Court may  
take notice  
of foreign  
law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section.

Interpre-  
tation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario.

Convention  
on Civil  
Aspects of  
International  
Child  
Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*.

Exception

R.S.O. 1980,  
c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention.

Central  
Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention.

Application  
to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs

Request  
to ratify  
convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication  
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

## SCHEDULE

### CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

#### CHAPTER I—SCOPE OF THE CONVENTION

##### *Article 1*

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

##### *Article 2*

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

##### *Article 3*

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and



- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

#### *Article 4*

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

#### *Article 5*

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

### CHAPTER II—CENTRAL AUTHORITIES

#### *Article 6*

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

#### *Article 7*

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

### CHAPTER III—RETURN OF CHILDREN

#### *Article 8*

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

#### *Article 9*

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.

*Article 10*

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

*Article 11*

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

*Article 12*

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

*Article 13*

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.



*Article 14*

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

*Article 15*

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

*Article 16*

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

*Article 17*

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

*Article 18*

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

*Article 19*

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

*Article 20*

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

## CHAPTER IV—RIGHTS OF ACCESS

*Article 21*

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

#### CHAPTER V—GENERAL PROVISIONS

##### *Article 22*

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

##### *Article 23*

No legalization or similar formality may be required in the context of this Convention.

##### *Article 24*

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

##### *Article 25*

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

##### *Article 26*

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

*Article 27*

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

*Article 28*

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

*Article 29*

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

*Article 30*

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

*Article 31*

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

*Article 32*

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

*Article 33*

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

*Article 34*

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

*Article 35*

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

*Article 36*

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

## CHAPTER VI—FINAL CLAUSES

*Article 37*

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

*Article 38*

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.

*Article 39*

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

*Article 40*

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

*Article 41*

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

*Article 42*

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

*Article 43*

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.



*Article 44*

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

*Article 45*

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

## GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian for the child. Appointment of guardian

(2) A guardian for a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians for the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian for the child. Parent and other person

More than  
one guardian

(3) A court may appoint more than one guardian for a child.

Guardians  
jointly  
responsible

(4) Where more than one guardian is appointed for a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian for a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of  
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment  
of debt  
due to  
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian has been appointed for the child, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money  
payable  
under  
judgment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

Receipt for  
payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian for the child.

Responsibility  
for money  
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian for a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian for a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian for a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian for a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian for the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian for the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian for a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian for a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

#### DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child



- (a) the disposition or encumbrance of all or part of the interest of the child in land;
- (b) the sale of the interest of the child in personal property; or
- (c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.

## Criteria

(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.

## Conditions

(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.

## Limitation

(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.

Execution  
of  
documents

(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.

## Directions

(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).

Validity  
of  
documents

(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.

## Liability

(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).

Order for  
maintenance  
where power  
of appointment  
in favour of  
children

61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.

## Idem

(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

#### TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody,  
appointment  
by will

(2) A guardian for a child may appoint by will one or more persons to be guardians for the child after the death of the appointor. Guardianship,  
appointment  
by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment  
by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

- (a) if the appointor is the only person entitled to custody of the child or who is the guardian for the child, as the case requires, on the day immediately before the appointment is to take effect; or
- (b) if the appointor and any other person entitled to custody of the child or who is the guardian for the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians for a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where  
more than  
one  
appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of  
appointee

(7) An appointment under subsection (1), (2) or (3) for custody or guardianship of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of or guardianship for the child within the ninety-day period, when the application is disposed of. Expiration  
of  
appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application  
or order  
under  
ss. 21, 48

(9) This section applies in respect of,

Application

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

## PROCEDURE

Joinder of  
proceedings  
  
R.S.O. 1980,  
c. 152

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

Nature  
of order

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

Parties

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

Combining  
of  
applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

Where  
identity  
of father  
not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

Application  
or response  
by minor

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

Consent by  
minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.

65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them.

Child  
entitled  
to be  
heard

(2) The court may interview the child to determine the views and preferences of the child.

Interview  
by court

(3) The interview shall be recorded.

Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview.

Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control.

Where child  
is sixteen  
or more  
years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

All  
proceedings  
in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing.

Closed  
hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child.

Consent  
orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part.

Incorporation  
of contract  
in order  
R.S.O. 1980,  
c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*.

Part subject  
to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction.

Jurisdiction  
of  
Supreme Court

Surrogate court	72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.
Order made under R.S.O. 1980, c. 292	73. An application to vary an order made by a surrogate court under the <i>Minors Act</i> shall be made to a county or district court.
Place where application to be made	74.—(1) Subject to subsections (2) and (3), an application under this Part in a provincial court (family division) or a county or district court shall be made in the judicial district in which the child resides.
Idem, application for interim order	(2) An application for an interim order shall be made to the court in which the original proceeding was taken.
Idem, application to vary order	(3) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.
Interim order	75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.
Appeal from provincial court (family division)	76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.
Order effective pending appeal	77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.
Rule of construction	78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship for the child.
Application	(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.
Application of Part to order under R.S.O. 1980, c. 292, 152; R.S.O. 1970, c. 128	79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the <i>Minors Act</i> (repealed by section 4 of the <i>Children's Law Reform Amendment Act, 1981</i> ), the <i>Family Law Reform Act</i> or <i>The Deserted Wives' and Children's Maintenance Act</i> (repealed by <i>The Family Law Reform Act, 1978</i> ) as if the order were made under this Part.



## COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980,  
c. 129,  
s. 1 (1), par.  
22,  
re-enacted

22. “guardian” means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out “in law” in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line. s. 17,  
amended

- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out “or custody” in the third line. R.S.O. 1980,  
c. 152,  
s. 20 (1),  
amended

- (2) Clause 26 (1) (b) of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b),  
amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35,  
re-enacted

35. An application for custody or access under the *Children's Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of  
actions  
R.S.O. 1980,  
c. 68

- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980,  
c. 292,  
repealed

- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children's Law Reform Act*, subject to such directions as the court considers appropriate. Application  
of subs. (1)  
to proceeding  
already  
commenced

- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where  
proceeding  
in surrogate  
court

R.S.O. 1980,  
c. 515

5. The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

Sched.,  
amended

*"Children's Law  
Reform Act*

All, except sections 67 and 68".

Commence-  
ment

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. The short title of this Act is the *Children's Law Reform Amendment Act, 1982*.









An Act to amend the  
Children's Law Reform Act

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*1st Reading*

March 9th, 1982

*2nd Reading*

March 9th, 1982

*3rd Reading*

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THE HON. R. MCMURTRY  
Attorney General

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*(Government Bill)*

**BILL 125**

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

INITIATIVE AMENDMENT  
2

**An Act to amend the Children's Law Reform Act**

THE HON. R. MCMURTRY  
Attorney General



TORONTO

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BILL 125

1982

## An Act to amend the Children's Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended<sup>Act, amended</sup> by adding thereto the following Part:

### PART III

#### CUSTODY, ACCESS AND GUARDIANSHIP

##### INTERPRETATION

18.—(1) In this Part,

Interpre-  
tation

- (a) "court" means a provincial court (family division), the Unified Family Court, a county or district court, the Supreme Court or a surrogate court exercising jurisdiction under section 72;
- (b) "extra-provincial order" means an order, or that part of an order, of an extra-provincial tribunal that grants to a person custody of or access to a child;
- (c) "extra-provincial tribunal" means a court or tribunal outside Ontario that has jurisdiction to grant to a person custody of or access to a child;
- (d) "separation agreement" means an agreement that is a valid separation agreement under Part IV of the *Family Law Reform Act*. R.S.O. 1980,  
c. 152

(2) A reference in this Part to a child is a reference to the child while a minor. Child

## Purposes

## 19. The purposes of this Part are,

- (a) to ensure that applications to the courts in respect of custody of, incidents of custody of, access to and guardianship for children will be determined on the basis of the best interests of the children;
- (b) to recognize that the concurrent exercise of jurisdiction by judicial tribunals of more than one province, territory or state in respect of the custody of the same child ought to be avoided, and to make provision so that the courts of Ontario will, unless there are exceptional circumstances, refrain from exercising or decline jurisdiction in cases where it is more appropriate for the matter to be determined by a tribunal having jurisdiction in another place with which the child has a closer connection;
- (c) to discourage the abduction of children as an alternative to the determination of custody rights by due process; and
- (d) to provide for the more effective enforcement of custody and access orders and for the recognition and enforcement of custody and access orders made outside Ontario.

## CUSTODY AND ACCESS

Father and  
mother  
entitled to  
custody

20.—(1) Except as otherwise provided in this Part, the father and the mother of a child are equally entitled to custody of the child.

Rights  
and  
respon-  
sibilities

(2) A person entitled to custody of a child has the rights and responsibilities of a parent in respect of the person of the child and must exercise those rights and responsibilities in the best interests of the child.

Authority  
to act

(3) Where more than one person is entitled to custody of a child, any one of them may exercise the rights and accept the responsibilities of a parent on behalf of them in respect of the child.

Where  
parents  
separate

(4) Where the parents of a child live separate and apart and the child lives with one of them with the consent, implied consent or acquiescence of the other of them, the right of the other to exercise the entitlement to custody and the incidents of custody, but not the entitlement to access, is suspended until a separation agreement or order otherwise provides.

Access

(5) The entitlement to access to a child includes the right to visit with and be visited by the child and the same right as a parent to make inquiries and to be given information as to the health, education and welfare of the child.

(6) The entitlement to custody of or access to a child terminates on the marriage of the child. Marriage of child

(7) Any entitlement to custody or access or incidents of custody under this section is subject to alteration by an order of the court or by separation agreement. Entitlement subject to agreement or order

21. A parent of a child or any other person may apply to a court for an order respecting custody of or access to the child or determining any aspect of the incidents of custody of the child. Application for order

22.—(1) A court shall only exercise its jurisdiction to make an order for custody of or access to a child where, Jurisdiction

(a) the child is habitually resident in Ontario at the commencement of the application for the order;

(b) although the child is not habitually resident in Ontario, the court is satisfied,

(i) that the child is physically present in Ontario at the commencement of the application for the order,

(ii) that substantial evidence concerning the best interests of the child is available in Ontario,

(iii) that no application for custody of or access to the child is pending before an extra-provincial tribunal in another place where the child is habitually resident,

(iv) that no extra-provincial order in respect of custody of or access to the child has been recognized by a court in Ontario,

(v) that the child has a real and substantial connection with Ontario, and

(vi) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

(2) A child is habitually resident in the place where he resided, Habitual residence

(a) with both parents;

(b) where the parents are living separate and apart, with one parent under a separation agreement or with the consent, implied consent or acquiescence of the other or under a court order; or



- (c) with a person other than a parent on a permanent basis for a significant period of time,

whichever last occurred.

#### Abduction

(3) The removal or withholding of a child without the consent of the person having custody of the child does not alter the habitual residence of the child unless there has been acquiescence or undue delay in commencing due process by the person from whom the child is removed or withheld.

#### Serious harm to child

23. Notwithstanding sections 22 and 42, a court may exercise its jurisdiction to make or to vary an order in respect of the custody of or access to a child where,

- (a) the child is physically present in Ontario; and
- (b) the court is satisfied that the child would, on the balance of probabilities, suffer serious harm if,
  - (i) the child remains in the custody of the person legally entitled to custody of the child,
  - (ii) the child is returned to the custody of the person legally entitled to custody of the child, or
  - (iii) the child is removed from Ontario.

#### Merits of application for custody or access

24.—(1) The merits of an application under this Part in respect of custody of or access to a child shall be determined on the basis of the best interests of the child.

#### Best interests of child

(2) In determining the best interests of a child for the purposes of an application under this Part in respect of custody of or access to a child, a court shall consider all the needs and circumstances of the child including,

- (a) the love, affection and emotional ties between the child and,
  - (i) each person entitled to or claiming custody of or access to the child,
  - (ii) other members of the child's family who reside with the child, and
  - (iii) persons involved in the care and upbringing of the child;
- (b) the views and preferences of the child, where such views and preferences can reasonably be ascertained;

- (c) the length of time the child has lived in a stable home environment;
- (d) the ability and willingness of each person applying for custody of the child to provide the child with guidance and education, the necessities of life and any special needs of the child;
- (e) any plans proposed for the care and upbringing of the child;
- (f) the permanence and stability of the family unit with which it is proposed that the child will live; and
- (g) the relationship by blood or through an adoption order between the child and each person who is a party to the application.

(3) The past conduct of a person is not relevant to a determination of an application under this Part in respect of custody of or access to a child unless the conduct is relevant to the ability of the person to act as a parent of a child. Past conduct

25. A court having jurisdiction under this Part in respect of custody or access may decline to exercise its jurisdiction where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario. Declining jurisdiction

26.—(1) Where an application under this Part in respect of custody of or access to a child has not been heard within six months after the commencement of the proceedings, the clerk or registrar of the court shall list the application for the court and give notice to the parties of the date and time when and the place where the court will fix a date for the hearing of the application. Delay

(2) At a hearing of a matter listed by the clerk or registrar in accordance with subsection (1), the court by order may fix a date for the hearing of the application and may give such directions in respect of the proceedings and make such order in respect of the costs of the proceedings as the court considers appropriate. Directions

(3) Where the court fixes a date under subsection (2), the court shall fix the earliest date that, in the opinion of the court, is compatible with a just disposition of the application. Early date

27. Where an action for divorce is commenced under the *Divorce Act* (Canada), any application under this Part in respect of custody of or access to a child that has not been determined is stayed except by leave of the court. Effect of divorce proceedings  
R.S.C. 1970,  
c. D-8

## CUSTODY AND ACCESS—ORDERS

Powers  
of court

28. The court to which an application is made under section 21,

- (a) by order may grant the custody of or access to the child to one or more persons;
- (b) by order may determine any aspect of the incidents of the right to custody or access; and
- (c) may make such additional order as the court considers necessary and proper in the circumstances.

Order  
varying  
an order

29. A court shall not make an order under this Part that varies an order in respect of custody or access made by a court in Ontario unless there has been a material change in circumstances that affects or is likely to affect the best interests of the child.

## CUSTODY AND ACCESS—ASSISTANCE TO COURT

Assessment  
of needs of  
child

30.—(1) The court before which an application is brought in respect of custody of or access to a child, by order, may appoint a person who has technical or professional skill to assess and report to the court on the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child.

When  
order  
may be  
made

(2) An order may be made under subsection (1) on or before the hearing of the application in respect of custody of or access to the child and with or without a request by a party to the application.

Agreement  
by parties

(3) The court shall, if possible, appoint a person agreed upon by the parties, but if the parties do not agree the court shall choose and appoint the person.

Consent  
to act

(4) The court shall not appoint a person under subsection (1) unless the person has consented to make the assessment and to report to the court within the period of time specified by the court.

Attendance  
for  
assessment

(5) In an order under subsection (1), the court may require the parties, the child and any other person who has been given notice of the proposed order, or any of them, to attend for assessment by the person appointed by the order.

Refusal  
to attend

(6) Where a person ordered under this section to attend for assessment refuses to attend or to undergo the assessment, the

court may draw such inferences in respect of the ability and willingness of any person to satisfy the needs of the child as the court considers appropriate.

(7) The person appointed under subsection (1) shall file his report with the clerk or registrar of the court. Report

(8) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child. Copies of report

(9) The report mentioned in subsection (7) is admissible in evidence in the application. Admissibility of report

(10) Any of the parties, and counsel, if any, representing the child, may require the person appointed under subsection (1) to attend as a witness at the hearing of the application. Assessor may be witness

(11) Upon motion, the court by order may give such directions in respect of the assessment as the court considers appropriate. Directions

(12) The court shall require the parties to pay the fees and expenses of the person appointed under subsection (1). Fees and expenses

(13) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay. Idem, proportions or amounts

(14) The court may relieve a party from responsibility for payment of any of the fees and expenses of the person appointed under subsection (1) where the court is satisfied that payment would cause serious financial hardship to the party. Idem, serious financial hardship

(15) The appointment of a person under subsection (1) does not prevent the parties or counsel representing the child from submitting other expert evidence as to the needs of the child and the ability and willingness of the parties or any of them to satisfy the needs of the child. Other expert evidence

31.—(1) Upon an application for custody of or access to a child, the court, at the request of the parties, by order may appoint a person selected by the parties to mediate any matter specified in the order. Mediation

(2) The court shall not appoint a person under subsection (1) unless the person, Consent to act

(a) has consented to act as mediator; and

(b) has agreed to file a report with the court within the period of time specified by the court.

Duty of  
mediator

(3) It is the duty of a mediator to confer with the parties and endeavour to obtain an agreement in respect of the matter.

Form of  
report

(4) Before entering into mediation on the matter, the parties shall decide whether,

- (a) the mediator is to file a full report on the mediation, including anything that the mediator considers relevant to the matter in mediation; or
- (b) the mediator is to file a report that either sets out the agreement reached by the parties or states only that the parties did not reach agreement on the matter.

Filing of  
report

(5) The mediator shall file his report with the clerk or registrar of the court in the form decided upon by the parties under subsection (4).

Copies of  
report

(6) The clerk or registrar of the court shall give a copy of the report to each of the parties and to counsel, if any, representing the child.

Admissions  
made in  
the course  
of mediation

(7) Where the parties have decided that the mediator's report is to be in the form described in clause (4) (b), evidence of anything said or of any admission or communication made in the course of the mediation is not admissible in any proceeding except with the consent of all parties to the proceeding in which the order was made under subsection (1).

Fees and  
expenses

(8) The court shall require the parties to pay the fees and expenses of the mediator.

Idem,  
proportions  
or amounts

(9) The court shall specify in the order the proportions or amounts of the fees and expenses that the court requires each party to pay.

Idem,  
serious  
financial  
hardship

(10) The court may relieve a party from responsibility for payment of any of the fees and expenses of the mediator where the court is satisfied that payment would cause serious financial hardship to the party.

Official  
Guardian's  
report

32. In an application under this Part in respect of a child, the court may require the Official Guardian to cause an investigation to be made and to report to the court upon all matters relating to the custody, support and education of the child, in which case section 1 of the *Matrimonial Causes Act* shall apply with necessary modifications and, for the purpose, the applicant shall be deemed to be the petitioner.

R.S.O. 1980,  
c. 258

Further  
evidence

33.—(1) Where a court is of the opinion that it is necessary to receive further evidence from a place outside Ontario before



making a decision, the court may send to the Attorney General, Minister of Justice or similar officer of the place outside Ontario such supporting material as may be necessary together with a request,

- (a) that the Attorney General, Minister of Justice or similar officer take such action as may be necessary in order to require a named person to attend before the proper tribunal in that place and produce or give evidence in respect of the subject-matter of the application; and
- (b) that the Attorney General, Minister of Justice or similar officer or the tribunal send to the court a certified copy of the evidence produced or given before the tribunal.

(2) A court that acts under subsection (1) may assess the cost of so acting against one or more of the parties to the application or may deal with such cost as costs in the cause. Cost of obtaining evidence

34.—(1) Where the Attorney General receives from an extra-provincial tribunal a request similar to that referred to in section 33 and such supporting material as may be necessary, it is the duty of the Attorney General to refer the request and the material to the proper court. Referral to court

(2) A court to which a request is referred by the Attorney General under subsection (1) shall require the person named in the request to attend before the court and produce or give evidence in accordance with the request. Obtaining evidence

#### CUSTODY AND ACCESS—ENFORCEMENT

35.—(1) Where an order is made for custody of or access to a child, a court may give such directions as it considers appropriate for the supervision of the custody or access by a person, a children's aid society or other body. Supervision of custody or access

(2) A court shall not direct a person, a children's aid society or other body to supervise custody or access as mentioned in subsection (1) unless the person, society or body has consented to act as supervisor. Consent to act

36. Upon application, a court may make an order restraining any person from molesting, annoying or harassing the applicant or a child in the lawful custody of the applicant and may require the respondent to enter into such recognizance, with or without sureties, or to post a bond as the court considers appropriate. Order restraining harassment

37.—(1) Where a court is satisfied upon application by a person in whose favour an order has been made for custody of or access to Order where child unlawfully withheld

a child that there are reasonable and probable grounds for believing that any person is unlawfully withholding the child from the applicant, the court by order may authorize the applicant or someone on his behalf to apprehend the child for the purpose of giving effect to the rights of the applicant to custody or access, as the case may be.

Order to  
locate and  
take child

(2) Where a court is satisfied upon application that there are reasonable and probable grounds for believing,

- (a) that any person is unlawfully withholding a child from a person entitled to custody of or access to the child;
- (b) that a person who is prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child or have the child removed from Ontario; or
- (c) that a person who is entitled to access to a child proposes to remove the child or to have the child removed from Ontario and that the child is not likely to return,

the court by order may direct the sheriff or a police force, or both, having jurisdiction in any area where it appears to the court that the child may be, to locate, apprehend and deliver the child to the person named in the order.

Application  
without  
notice

(3) An order may be made under subsection (2) upon an application without notice where the court is satisfied that it is necessary that action be taken without delay.

Duty to  
act

(4) The sheriff or police force directed to act by an order under subsection (2) shall do all things reasonably able to be done to locate, apprehend and deliver the child in accordance with the order.

Entry and  
search

(5) For the purpose of locating and apprehending a child in accordance with an order under subsection (2), a sheriff or a member of a police force may enter and search any place where he has reasonable and probable grounds for believing that the child may be with such assistance and such force as are reasonable in the circumstances.

Time

(6) An entry or a search referred to in subsection (5) shall be made only between 6 a.m. and 9 p.m. standard time unless the court, in the order, authorizes entry and search at another time.

Expiration  
of order

(7) An order made under subsection (2) shall name a date on which it expires, which shall be a date not later than six months after it is made unless the court is satisfied that a longer period of time is necessary in the circumstances.

(8) An application under subsection (1) or (2) may be made in an application for custody or access or at any other time. When application may be made

38.—(1) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person prohibited by court order or separation agreement from removing a child from Ontario proposes to remove the child from Ontario, the court in order to prevent the removal of the child from Ontario may make an order under subsection (3). Application to prevent unlawful removal of child

(2) Where a court, upon application, is satisfied upon reasonable and probable grounds that a person entitled to access to a child proposes to remove the child from Ontario and is not likely to return the child to Ontario, the court in order to secure the prompt, safe return of the child to Ontario may make an order under subsection (3). Application to ensure return of child

(3) An order mentioned in subsection (1) or (2) may require a person to do any one or more of the following: Order by court

1. Transfer specific property to a named trustee to be held subject to the terms and conditions specified in the order.
2. Where payments have been ordered for the support of the child, make the payments to a specified trustee subject to the terms and conditions specified in the order.
3. Post a bond, with or without sureties, payable to the applicant in such amount as the court considers appropriate.
4. Deliver the person's passport, the child's passport and any other travel documents of either of them that the court may specify to the court or to an individual or body specified by the court.

(4) A provincial court (family division) shall not make an order under paragraph 1 of subsection (3). Idem, provincial court (family division)

(5) In an order under paragraph 1 of subsection (3), the court may specify terms and conditions for the return or the disposition of the property as the court considers appropriate. Terms and conditions

(6) A court or an individual or body specified by the court in an order under paragraph 4 of subsection (3) shall hold a passport or travel document delivered in accordance with the order in safekeeping in accordance with any directions set out in the order. Safekeeping



## Directions

(7) In an order under subsection (3), a court may give such directions in respect of the safekeeping of the property, payments, passports or travel documents as the court considers appropriate.

Contempt  
of orders  
of provincial  
court (family  
division)

39.—(1) In addition to its powers in respect of contempt, every provincial court (family division) may punish by fine or imprisonment, or both, any wilful contempt of or resistance to its process or orders in respect of custody of or access to a child, but the fine shall not in any case exceed \$1,000 nor shall the imprisonment exceed ninety days.

Conditions  
of  
imprisonment

(2) An order for imprisonment under subsection (1) may be made conditional upon default in the performance of a condition set out in the order and may provide for the imprisonment to be served intermittently.

Information  
as to  
address

40.—(1) Where, upon application to a court, it appears to the court that,

- (a) for the purpose of bringing an application in respect of custody or access under this Part; or
- (b) for the purpose of the enforcement of an order for custody or access,

the proposed applicant or person in whose favour the order is made has need to learn or confirm the whereabouts of the proposed respondent or person against whom the order referred to in clause (b) is made, the court may order any person or public body to provide the court with such particulars of the address of the proposed respondent or person against whom the order referred to in clause (b) is made as are contained in the records in the custody of the person or body, and the person or body shall give the court such particulars as are contained in the records and the court may then give the particulars to such person or persons as the court considers appropriate.

## Exception

(2) A court shall not make an order on an application under subsection (1) where it appears to the court that the purpose of the application is to enable the applicant to identify or to obtain particulars as to the identity of a person who has custody of a child, rather than to learn or confirm the whereabouts of the proposed respondent or the enforcement of an order for custody or access.

Compliance  
with order

(3) The giving of information in accordance with an order under subsection (1) shall be deemed for all purposes not to be a contravention of any Act or regulation or any common law rule of confidentiality.

Section  
binds Crown

(4) This section binds the Crown in right of Ontario.

## CUSTODY AND ACCESS—EXTRA-PROVINCIAL MATTERS

41. Upon application, a court,

Interim  
powers of  
court

- (a) that is satisfied that a child has been wrongfully removed to or is being wrongfully retained in Ontario; or
- (b) that may not exercise jurisdiction under section 22 or that has declined jurisdiction under section 25 or 43,

may do any one or more of the following:

- 1. Make such interim order in respect of the custody or access as the court considers is in the best interests of the child.
- 2. Stay the application subject to,
  - i. the condition that a party to the application promptly commence a similar proceeding before an extra-provincial tribunal, or
  - ii. such other conditions as the court considers appropriate.
- 3. Order a party to return the child to such place as the court considers appropriate and, in the discretion of the court, order payment of the cost of the reasonable travel and other expenses of the child and any parties to or witnesses at the hearing of the application.

42.—(1) Upon application by any person in whose favour an order for the custody of or access to a child has been made by an extra-provincial tribunal, a court shall recognize the order unless the court is satisfied,

Enforcement  
of extra-  
provincial  
orders

- (a) that the respondent was not given reasonable notice of the commencement of the proceeding in which the order was made;
- (b) that the respondent was not given an opportunity to be heard by the extra-provincial tribunal before the order was made;
- (c) that the law of the place in which the order was made did not require the extra-provincial tribunal to have regard for the best interests of the child;
- (d) that the order of the extra-provincial tribunal is contrary to public policy in Ontario; or

- (e) that, in accordance with section 22, the extra-provincial tribunal would not have jurisdiction if it were a court in Ontario.

Effect of  
recognition  
of order

(2) An order made by an extra-provincial tribunal that is recognized by a court shall be deemed to be an order of the court and enforceable as such.

Conflicting  
orders

(3) A court presented with conflicting orders made by extra-provincial tribunals for the custody of or access to a child that, but for the conflict, would be recognized and enforced by the court under subsection (1) shall recognize and enforce the order that appears to the court to be most in accord with the best interests of the child.

Further  
orders

(4) A court that has recognized an extra-provincial order may make such further orders under this Part as the court considers necessary to give effect to the order.

Superseding  
order,  
material  
change in  
circumstances

43.—(1) Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child where the court is satisfied that there has been a material change in circumstances that affects or is likely to affect the best interests of the child and,

- (a) the child is habitually resident in Ontario at the commencement of the application for the order; or
- (b) although the child is not habitually resident in Ontario, the court is satisfied,
  - (i) that the child is physically present in Ontario at the commencement of the application for the order,
  - (ii) that the child no longer has a real and substantial connection with the place where the extra-provincial order was made,
  - (iii) that substantial evidence concerning the best interests of the child is available in Ontario,
  - (iv) that the child has a real and substantial connection with Ontario, and
  - (v) that, on the balance of convenience, it is appropriate for jurisdiction to be exercised in Ontario.

Declining  
jurisdiction

(2) A court may decline to exercise its jurisdiction under this section where it is of the opinion that it is more appropriate for jurisdiction to be exercised outside Ontario.

44. Upon application, a court by order may supersede an extra-provincial order in respect of custody of or access to a child if the court is satisfied that the child would, on the balance of probability, suffer serious harm if,

Superseding  
order,  
serious  
harm

- (a) the child remains in the custody of the person legally entitled to custody of the child;
- (b) the child is returned to the custody of the person entitled to custody of the child; or
- (c) the child is removed from Ontario.

45. A copy of an extra-provincial order certified as a true copy by a judge, other presiding officer or registrar of the tribunal that made the order or by a person charged with keeping the orders of the tribunal is *prima facie* evidence of the making of the order, the content of the order and the appointment and signature of the judge, presiding officer, registrar or other person.

True copy  
of extra-  
provincial  
order

46. For the purposes of an application under this Part, a court may take notice, without requiring formal proof, of the law of a jurisdiction outside Ontario and of a decision of an extra-provincial tribunal.

Court may  
take notice  
of foreign  
law

47.—(1) In this section, “convention” means the Convention on the Civil Aspects of International Child Abduction, set out in the Schedule to this section.

Interpre-  
tation

(2) On, from and after the date the convention enters into force in respect of Ontario as set out in Article 43 of the convention, except as provided in subsection (3), the convention is in force in Ontario and the provisions thereof are law in Ontario.

Convention  
on Civil  
Aspects of  
International  
Child  
Abduction

(3) The Crown is not bound to assume any costs resulting under the convention from the participation of legal counsel or advisers or from court proceedings except in accordance with the *Legal Aid Act*.

Exception

R.S.O. 1980,  
c. 234

(4) The Ministry of the Attorney General shall be the Central Authority for Ontario for the purpose of the convention.

Central  
Authority

(5) An application may be made to a court in pursuance of a right or an obligation under the convention.

Application  
to court

(6) The Attorney General shall request the Government of Canada to submit a declaration to the Ministry of Foreign Affairs

Request  
to ratify  
convention

of the Kingdom of the Netherlands, declaring that the convention extends to Ontario.

Publication  
of date

(7) The Attorney General shall publish in *The Ontario Gazette* the date the convention comes into force in Ontario.

Regulations

(8) The Lieutenant Governor in Council may make such regulations as he considers necessary to carry out the intent and purpose of this section.

Conflict

(9) Where there is a conflict between this section and any other enactment, this section prevails.

## SCHEDULE

### CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

The States signatory to the present Convention,

Firmly convinced that the interests of children are of paramount importance in matters relating to their custody,

Desiring to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the State of their habitual residence, as well as to secure protection for rights of access,

Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

#### CHAPTER I—SCOPE OF THE CONVENTION

##### *Article 1*

The objects of the present Convention are:

- (a) to secure the prompt return of children wrongfully removed to or retained in any Contracting State; and
- (b) to ensure that rights of custody and of access under the law of one Contracting State are effectively respected in the other Contracting States.

##### *Article 2*

Contracting States shall take all appropriate measures to secure within their territories the implementation of the objects of the Convention. For this purpose they shall use the most expeditious procedures available.

##### *Article 3*

The removal or the retention of a child is to be considered wrongful where:

- (a) it is in breach of rights of custody attributed to a person, an institution or any other body, either jointly or alone, under the law of the State in which the child was habitually resident immediately before the removal or retention; and



- (b) at the time of removal or retention those rights were actually exercised, either jointly or alone, or would have been so exercised but for the removal or retention.

The rights of custody mentioned in sub-paragraph (a) above, may arise in particular by operation of law or by reason of a judicial or administrative decision, or by reason of an agreement having legal effect under the law of that State.

#### *Article 4*

The Convention shall apply to any child who was habitually resident in a Contracting State immediately before any breach of custody or access rights. The Convention shall cease to apply when the child attains the age of 16 years.

#### *Article 5*

For the purposes of this Convention:

- (a) 'rights of custody' shall include rights relating to the care of the person of the child and, in particular, the right to determine the child's place of residence;
- (b) 'rights of access' shall include the right to take a child for a limited period of time to a place other than the child's habitual residence.

### CHAPTER II—CENTRAL AUTHORITIES

#### *Article 6*

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial organizations shall be free to appoint more than one Central Authority and to specify the territorial extent of their powers. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which applications may be addressed for transmission to the appropriate Central Authority within that State.

#### *Article 7*

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their respective States to secure the prompt return of children and to achieve the other objects of this Convention.

In particular, either directly or through any intermediary, they shall take all appropriate measures:

- (a) to discover the whereabouts of a child who has been wrongfully removed or retained;
- (b) to prevent further harm to the child or prejudice to interested parties by taking or causing to be taken provisional measures;
- (c) to secure the voluntary return of the child or to bring about an amicable resolution of the issues;
- (d) to exchange, where desirable, information relating to the social background of the child;

- (e) to provide information of a general character as to the law of their State in connection with the application of the Convention;
- (f) to initiate or facilitate the institution of judicial or administrative proceedings with a view to obtaining the return of the child and, in a proper case, to make arrangements for organizing or securing the effective exercise of rights of access;
- (g) where the circumstances so require, to provide or facilitate the provision of legal aid and advice, including the participation of legal counsel and advisers;
- (h) to provide such administrative arrangements as may be necessary and appropriate to secure the safe return of the child;
- (i) to keep each other informed with respect to the operation of this Convention and, as far as possible, to eliminate any obstacles to its application.

### CHAPTER III—RETURN OF CHILDREN

#### *Article 8*

Any person, institution or other body claiming that a child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child.

The application shall contain:

- (a) information concerning the identity of the applicant, of the child and of the person alleged to have removed or retained the child;
- (b) where available, the date of birth of the child;
- (c) the grounds on which the applicant's claim for return of the child is based;
- (d) all available information relating to the whereabouts of the child and the identity of the person with whom the child is presumed to be.

The application may be accompanied or supplemented by:

- (e) an authenticated copy of any relevant decision or agreement;
- (f) a certificate or an affidavit emanating from a Central Authority, or other competent authority of the State of the child's habitual residence, or from a qualified person, concerning the relevant law of that State;
- (g) any other relevant document.

#### *Article 9*

If the Central Authority which receives an application referred to in Article 8 has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of that Contracting State and inform the requesting Central Authority, or the applicant, as the case may be.



*Article 10*

The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child.

*Article 11*

The judicial or administrative authorities of Contracting States shall act expeditiously in proceedings for the return of children.

If the judicial or administrative authority concerned has not reached a decision within six weeks from the date of commencement of the proceedings, the applicant or the Central Authority of the requested State, on its own initiative or if asked by the Central Authority of the requesting State, shall have the right to request a statement of the reasons for the delay. If a reply is received by the Central Authority of the requested State, that Authority shall transmit the reply to the Central Authority of the requesting State, or to the applicant, as the case may be.

*Article 12*

Where a child has been wrongfully removed or retained in terms of Article 3 and, at the date of the commencement of the proceedings before the judicial or administrative authority of the Contracting State where the child is, a period of less than one year has elapsed from the date of the wrongful removal or retention, the authority concerned shall order the return of the child forthwith.

The judicial or administrative authority, even where the proceedings have been commenced after the expiration of the period of one year referred to in the preceding paragraph, shall also order the return of the child, unless it is demonstrated that the child is now settled in its new environment.

Where the judicial or administrative authority in the requested State has reason to believe that the child has been taken to another State, it may stay the proceedings or dismiss the application for the return of the child.

*Article 13*

Notwithstanding the provisions of the preceding Article, the judicial or administrative authority of the requested State is not bound to order the return of the child if the person, institution or other body which opposes its return establishes that:

- (a) the person, institution or other body having the care of the person of the child was not actually exercising the custody rights at the time of removal or retention, or had consented to or subsequently acquiesced in the removal or retention; or
- (b) there is a grave risk that his or her return would expose the child to physical or psychological harm or otherwise place the child in an intolerable situation.

The judicial or administrative authority may also refuse to order the return of the child if it finds that the child objects to being returned and has attained an age and degree of maturity at which it is appropriate to take account of its views.

In considering the circumstances referred to in this Article, the judicial and administrative authorities shall take into account the information relating to the social background of the child provided by the Central Authority or other competent authority of the child's habitual residence.

*Article 14*

In ascertaining whether there has been a wrongful removal or retention within the meaning of Article 3, the judicial or administrative authorities of the requested State may take notice directly of the law of, and of judicial or administrative decisions, formally recognized or not in the State of the habitual residence of the child, without recourse to the specific procedures for the proof of that law or for the recognition of foreign decisions which would otherwise be applicable.

*Article 15*

The judicial or administrative authorities of a Contracting State may, prior to the making of an order for the return of the child, request that the applicant obtain from the authorities of the State of the habitual residence of the child a decision or other determination that the removal or retention was wrongful within the meaning of Article 3 of the Convention, where such a decision or determination may be obtained in that State. The Central Authorities of the Contracting States shall so far as practicable assist applicants to obtain such a decision or determination.

*Article 16*

After receiving notice of a wrongful removal or retention of a child in the sense of Article 3, the judicial or administrative authorities of the Contracting State to which the child has been removed or in which it has been retained shall not decide on the merits of rights of custody until it has been determined that the child is not to be returned under this Convention or unless an application under this Convention is not lodged within a reasonable time following receipt of the notice.

*Article 17*

The sole fact that a decision relating to custody has been given in or is entitled to recognition in the requested State shall not be a ground for refusing to return a child under this Convention, but the judicial or administrative authorities of the requested State may take account of the reasons for that decision in applying this Convention.

*Article 18*

The provisions of this Chapter do not limit the power of a judicial or administrative authority to order the return of the child at any time.

*Article 19*

A decision under this Convention concerning the return of the child shall not be taken to be a determination on the merits of any custody issue.

*Article 20*

The return of the child under the provisions of Article 12 may be refused if this would not be permitted by the fundamental principles of the requested State relating to the protection of human rights and fundamental freedoms.

## CHAPTER IV—RIGHTS OF ACCESS

*Article 21*

An application to make arrangements for organizing or securing the effective exercise of rights of access may be presented to the Central Authorities of the Contracting States in the same way as an application for the return of a child.

The Central Authorities are bound by the obligations of co-operation which are set forth in Article 7 to promote the peaceful enjoyment of access rights and the fulfilment of any conditions to which the exercise of those rights may be subject. The Central Authorities shall take steps to remove, as far as possible, all obstacles to the exercise of such rights.

The Central Authorities, either directly or through intermediaries, may initiate or assist in the institution of proceedings with a view to organizing or protecting these rights and securing respect for the conditions to which the exercise of these rights may be subject.

#### CHAPTER V—GENERAL PROVISIONS

##### *Article 22*

No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in the judicial or administrative proceedings falling within the scope of this Convention.

##### *Article 23*

No legalization or similar formality may be required in the context of this Convention.

##### *Article 24*

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English.

However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

##### *Article 25*

Nationals of the Contracting States and persons who are habitually resident within those States shall be entitled in matters concerned with the application of this Convention to legal aid and advice in any other Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State.

##### *Article 26*

Each Central Authority shall bear its own costs in applying this Convention.

Central Authorities and other public services of Contracting States shall not impose any charges in relation to applications submitted under this Convention. In particular, they may not require any payment from the applicant towards the costs and expenses of the proceedings or, where applicable, those arising from the participation of legal counsel or advisers. However, they may require the payment of the expenses incurred or to be incurred in implementing the return of the child.

However, a Contracting State may, by making a reservation in accordance with Article 42, declare that it shall not be bound to assume any costs referred to in the preceding paragraph resulting from the participation of legal counsel or advisers or from court proceedings, except insofar as those costs may be covered by its system of legal aid and advice.

Upon ordering the return of a child or issuing an order concerning rights of access under this Convention, the judicial or administrative authorities may, where appropriate, direct the person who removed or retained the child, or who prevented the exercise of rights of access, to pay necessary expenses incurred by or on behalf of the applicant, including travel expenses, any costs incurred or payments made for locating the child, the costs of legal representation of the applicant, and those of returning the child.

*Article 27*

When it is manifest that the requirements of this Convention are not fulfilled or that the application is otherwise not well founded, a Central Authority is not bound to accept the application. In that case, the Central Authority shall forthwith inform the applicant or the Central Authority through which the application was submitted, as the case may be, of its reasons.

*Article 28*

A Central Authority may require that the application be accompanied by a written authorization empowering it to act on behalf of the applicant, or to designate a representative so to act.

*Article 29*

This Convention shall not preclude any person, institution or body who claims that there has been a breach of custody or access rights within the meaning of Article 3 or 21 from applying directly to the judicial or administrative authorities of a Contracting State, whether or not under the provisions of this Convention.

*Article 30*

Any application submitted to the Central Authorities or directly to the judicial or administrative authorities of a Contracting State in accordance with the terms of this Convention, together with documents and any other information appended thereto or provided by a Central Authority, shall be admissible in the courts or administrative authorities of the Contracting States.

*Article 31*

In relation to a State which in matters of custody of children has two or more systems of law applicable in different territorial units:

- (a) any reference to habitual residence in that State shall be construed as referring to habitual residence in a territorial unit of that State;
- (b) any reference to the law of the State of habitual residence shall be construed as referring to the law of the territorial unit in that State where the child habitually resides.

*Article 32*

In relation to a State which in matters of custody of children has two or more systems of law applicable to different categories of persons, any reference to the law of that State shall be construed as referring to the legal system specified by the law of that State.

*Article 33*

A State within which different territorial units have their own rules of law in respect of custody of children shall not be bound to apply this Convention where a State with a unified system of law would not be bound to do so.

*Article 34*

This Convention shall take priority in matters within its scope over the *Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of minors*, as between Parties to both Conventions. Otherwise the present Convention shall not restrict the application of an international instrument in force between the State of origin and the State addressed or other law of the State addressed for the purposes of obtaining the return of a child who has been wrongfully removed or retained or of organizing access rights.

*Article 35*

This Convention shall apply as between Contracting States only to wrongful removals or retentions occurring after its entry into force in those States.

Where a declaration has been made under Article 39 or 40, the reference in the preceding paragraph to a Contracting State shall be taken to refer to the territorial unit or units in relation to which this Convention applies.

*Article 36*

Nothing in this Convention shall prevent two or more Contracting States, in order to limit the restrictions to which the return of the child may be subject, from agreeing among themselves to derogate from any provisions of this Convention which may imply such a restriction.

## CHAPTER VI—FINAL CLAUSES

*Article 37*

The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Fourteenth Session.

It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

*Article 38*

Any other State may accede to the Convention.

The instrument of accession shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The Convention shall enter into force for a State acceding to it on the first day of the third calendar month after the deposit of its instrument of accession.

The accession will have effect only as regards the relations between the acceding State and such Contracting States as will have declared their acceptance of the accession. Such a declaration will also have to be made by any Member State ratifying, accepting or approving the Convention after an accession. Such declaration shall be deposited at the Ministry of Foreign Affairs of the Kingdom of the Netherlands; this Ministry shall forward, through diplomatic channels, a certified copy to each of the Contracting States.

The Convention will enter into force as between the acceding State and the State that has declared its acceptance of the accession on the first day of the third calendar month after the deposit of the declaration of acceptance.



*Article 39*

Any State may, at the time of signature, ratification, acceptance, approval or accession, declare that the Convention shall extend to all the territories for the international relations of which it is responsible, or to one or more of them. Such a declaration shall take effect at the time the Convention enters into force for that State.

Such declaration, as well as any subsequent extension, shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

*Article 40*

If a Contracting State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in this Convention, it may at the time of signature, ratification, acceptance, approval or accession declare that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.

Any such declaration shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands and shall state expressly the territorial units to which the Convention applies.

*Article 41*

Where a Contracting State has a system of government under which executive, judicial and legislative powers are distributed between central and other authorities within that State, its signature or ratification, acceptance or approval of, or accession to this Convention, or its making of any declaration in terms of Article 40 shall carry no implication as to the internal distribution of powers within that State.

*Article 42*

Any State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 39 or 40, make one or both of the reservations provided for in Article 24 and Article 26, third paragraph. No other reservation shall be permitted.

Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands.

The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in the preceding paragraph.

*Article 43*

The Convention shall enter into force on the first day of the third calendar month after the deposit of the third instrument of ratification, acceptance, approval or accession referred to in Articles 37 and 38.

Thereafter the Convention shall enter into force:

1. for each State ratifying, accepting, approving or acceding to it subsequently, on the first day of the third calendar month after the deposit of its instrument of ratification, acceptance, approval or accession;
2. for any territory or territorial unit to which the Convention has been extended in conformity with Article 39 or 40, on the first day of the third calendar month after the notification referred to in that Article.

*Article 44*

The Convention shall remain in force for five years from the date of its entry into force in accordance with the first paragraph of Article 43 even for States which subsequently have ratified, accepted, approved it or acceded to it. If there has been no denunciation, it shall be renewed tacitly every five years.

Any denunciation shall be notified to the Ministry of Foreign Affairs of the Kingdom of the Netherlands at least six months before the expiry of the five year period. It may be limited to certain of the territories or territorial units to which the Convention applies.

The denunciation shall have effect only as regards the State which has notified it. The Convention shall remain in force for the other Contracting States.

*Article 45*

The Ministry of Foreign Affairs of the Kingdom of the Netherlands shall notify the States Members of the Conference, and the States which have acceded in accordance with Article 38, of the following:

1. the signatures and ratifications, acceptances and approvals referred to in Article 37;
2. the accessions referred to in Article 38;
3. the date on which the Convention enters into force in accordance with Article 43;
4. the extensions referred to in Article 39;
5. the declarations referred to in Articles 38 and 40;
6. the reservations referred to in Article 24 and Article 26, third paragraph, and the withdrawals referred to in Article 42;
7. the denunciations referred to in Article 44.

Done at The Hague, on the 25th day of October, 1980.

## GUARDIANSHIP

48.—(1) Upon application, by a parent of a child or any other person, a court may appoint a guardian of the property of the child. Appointment of guardian

(2) A guardian of the property of a child has charge of and is responsible for the care and management of the property of the child. Responsibility of guardian

49.—(1) As between themselves and subject to any court order or any agreement between them, the parents of a child are equally entitled to be appointed by a court as guardians of the property of the child. Parents as guardians

(2) As between a parent of a child and a person who is not a parent of the child, the parent has a preferential entitlement to be appointed by a court as a guardian of the property of the child. Parent and other person



More than  
one guardian

(3) A court may appoint more than one guardian of the property of a child.

Guardians  
jointly  
responsible

(4) Where more than one guardian is appointed of the property of a child, the guardians are jointly responsible for the care and management of the property of the child.

Criteria

50. In deciding an application for the appointment of a guardian of the property of a child, the court shall consider all the circumstances, including,

- (a) the ability of the applicant to manage the property of the child;
- (b) the merits of any plans proposed by the applicant for the care and management of the property of the child; and
- (c) the views and preferences of the child, where such views and preferences can reasonably be ascertained.

Effect of  
appointment

51. The appointment of a guardian by a court under this Part has effect in all parts of Ontario.

Payment  
of debt  
due to  
child

52.—(1) Where a person is under a duty to pay money or deliver personal property to a child and no guardian of the property of the child has been appointed, the payment of not more than \$2,000 or the delivery of the personal property to a value of not more than \$2,000 in a year to,

- (a) the child, if the child is married;
- (b) a parent with whom the child resides; or
- (c) a person who has lawful custody of the child,

discharges the duty to the extent of the amount paid or the value of the personal property delivered, but the total amount paid, or total value of property delivered, under this subsection in respect of the same obligation shall not exceed \$5,000.

Money  
payable  
under  
judgment

(2) Subsection (1) does not apply in respect of money payable under a judgment or order of a court.

Receipt for  
payment

(3) A receipt or discharge for money or personal property not in excess of the amount or value set out in subsection (1) received for a child by a parent with whom the child resides or a person who has lawful custody of the child has the same validity as if a court had appointed the parent or the person as a guardian of the property of the child.

Responsibility  
for money  
or property

(4) A parent with whom a child resides or a person who has lawful custody of a child who receives and holds money or personal property referred to in subsection (1) has the responsibility of a

guardian for the care and management of the money or personal property.

53. A guardian of the property of a child may be required to account or may voluntarily pass his accounts in respect of his care and management of the property of the child in the same manner as a trustee under a will may be required to account or may pass his accounts in respect of his trusteeship. Accounts

54. A guardian of the property of a child shall transfer to the child all property of the child in the care of the guardian when the child attains the age of eighteen years. Transfer of property to child

55. A guardian of the property of a child is entitled to payment of a reasonable amount for his fees for and expenses of management of the property of the child. Management fees and expenses

56.—(1) A court that appoints a guardian of the property of a child shall require the guardian to post a bond, with or without sureties, payable to the child in such amount as the court considers appropriate in respect of the care and management of the property of the child. Bond by guardian

(2) Subsection (1) does not apply where the court appoints a parent of a child as guardian of the property of the child and the court is of the opinion that it is appropriate not to require the parent to post a bond. Where parent appointed guardian

57. Upon application by a married child, the court that appointed a guardian of the property of the child or a co-ordinate court by order shall end the guardianship for the child. Where child marries

58.—(1) A guardian of the property of a child may be removed by a court for the same reasons for which a trustee may be removed. Removal of guardian

(2) A guardian of the property of a child, with the permission of a court, may resign his office upon such conditions as the court considers appropriate. Resignation of guardian

59. A notice of every application to a court for appointment of a guardian of the property of a child shall be transmitted by the registrar or clerk of the court to the Surrogate Clerk for Ontario. Notice to Surrogate Clerk for Ontario

#### DISPOSITION OF PROPERTY

60.—(1) Upon application by the parent of a child or any other person, the Supreme Court by order may require or approve, or both, Supreme Court order re property of child

	<p>(a) the disposition or encumbrance of all or part of the interest of the child in land;</p> <p>(b) the sale of the interest of the child in personal property; or</p> <p>(c) the payment of all or part of any money belonging to the child or of the income from any property belonging to the child, or both.</p>
Criteria	(2) An order shall be made under subsection (1) only where the Supreme Court is of the opinion that the disposition, encumbrance, sale or payment is necessary or proper for the support or education of the child or will substantially benefit the child.
Conditions	(3) An order under subsection (1) may be made subject to such conditions as the Supreme Court considers appropriate.
Limitation	(4) The Supreme Court shall not require or approve a disposition or encumbrance of the interest of a child in land contrary to a term of the instrument by which the child acquired the interest.
Execution of documents	(5) The Supreme Court, where it makes an order under subsection (1), may order that the child or another person named in the order execute any documents necessary to carry out the disposition, encumbrance, sale or payment.
Directions	(6) The Supreme Court by order may give such directions as it considers necessary for the carrying out of an order made under subsection (1).
Validity of documents	(7) Every document executed in accordance with an order under this section is as effectual as if the child by whom it was executed was eighteen years of age or, if executed by another person in accordance with the order, as if the child had executed it and had been eighteen years of age at the time.
Liability	(8) No person incurs or shall be deemed to incur liability by making a payment in accordance with an order under clause (1) (c).
Order for maintenance where power of appointment in favour of children	61.—(1) Upon application by or with the consent of a person who has an estate for life in property with power to devise or appoint the property to one or more of his children, the Supreme Court may order that such part of the proceeds of the property as the Supreme Court considers proper be used for the support, education or benefit of one or more of the children.
Idem	(2) An order may be made under subsection (1) whether or not,

- (a) there is a gift over in the event that there are no children to take under the power; or
- (b) any person could dispose of the property in the event that there are no children to take under the power.

#### TESTAMENTARY CUSTODY AND GUARDIANSHIP

62.—(1) A person entitled to custody of a child may appoint by will one or more persons to have custody of the child after the death of the appointor. Custody, appointment by will

(2) A guardian of the property of a child may appoint by will one or more persons to be guardians of the property of the child after the death of the appointor. Guardianship, appointment by will

(3) An unmarried parent who is a minor may make an appointment mentioned in subsection (1) or (2) by a written appointment signed by the parent. Appointment by minor

(4) An appointment under subsection (1), (2) or (3) is effective only, Limitation

(a) if the appointor is the only person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, on the day immediately before the appointment is to take effect; or

(b) if the appointor and any other person entitled to custody of the child or who is the guardian of the property of the child, as the case requires, die at the same time or in circumstances that render it uncertain which survived the other.

(5) Where two or more persons are appointed to have custody of or to be guardians of the property of a child by appointors who die as mentioned in clause (4) (b), only the appointments of the persons appointed by both or all of the appointors are effective. Where more than one appointment

(6) No appointment under subsection (1), (2) or (3) is effective without the consent of the person appointed. Consent of appointee

(7) An appointment under subsection (1), (2) or (3) for custody of a child or guardianship of the property of a child expires ninety days after the appointment becomes effective or, where the appointee applies under this Part for custody of the child or guardianship of the property of the child within the ninety-day period, when the application is disposed of. Expiration of appointment

(8) An appointment under this section does not apply to prevent an application for or the making of an order under section 21 or 48. Application or order under ss. 21, 48

## Application

(9) This section applies in respect of,

- (a) any will made on or after the day this section comes into force; and
- (b) any will made before the day this section comes into force, if the testator is living on the day this section comes into force.

## PROCEDURE

## Joinder of proceedings

R.S.O. 1980,  
c. 152

## Nature of order

63.—(1) An application under this Part may be made in the same proceeding and in the same manner as an application under the *Family Law Reform Act*, or in another proceeding.

(2) An application under this Part may be an original application or for the variance of an order previously given or to supersede an order of an extra-provincial tribunal.

## Parties

(3) The parties to an application under this Part in respect of a child shall include,

- (a) the mother and the father of the child;
- (b) a person who has demonstrated a settled intention to treat the child as a child of his or her family;
- (c) a person who had the actual care and upbringing of the child immediately before the application; and
- (d) any other person whose presence as a party is necessary to determine the matters in issue.

## Combining of applications

(4) Where, in an application under this Part, it appears to the court that it is necessary or desirable in the best interests of the child to have other matters first or simultaneously determined, the court may direct that the application stand over until such other proceedings are brought or determined as the court considers appropriate, subject to section 26.

## Where identity of father not known

(5) Where there is no presumption of paternity and the identity of the father is not known or is not reasonably capable of being ascertained, the court may order substituted service or may dispense with service of documents upon the father in the proceeding.

## Application or response by minor

64.—(1) A minor who is a spouse may make an application under this Part without a next friend and may respond without a guardian *ad litem*.

## Consent by minor

(2) A consent in respect of a matter provided for by this Part is not invalid by reason only that the person giving the consent is a minor.



65.—(1) In considering an application under this Part, a court where possible shall take into consideration the views and preferences of the child to the extent that the child is able to express them.

Child  
entitled  
to be  
heard

(2) The court may interview the child to determine the views and preferences of the child.

Interview  
by court

(3) The interview shall be recorded.

Recording

(4) The child is entitled to be advised by and to have his counsel, if any, present during the interview.

Counsel

66. Nothing in this Part abrogates the right of a child of sixteen or more years of age to withdraw from parental control.

Where child  
is sixteen  
or more  
years old

67. Except as otherwise provided, where an application is made to a court under this Part, no person who is a party to the proceeding shall make an application under this Part to any other court in respect of a matter in issue in the proceeding, but the court may order that the proceedings be transferred to a court having other jurisdiction where, in the opinion of the court, the court having other jurisdiction is more appropriate to determine the matters in issue that should be determined at the same time.

All  
proceedings  
in one court

68. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing.

Closed  
hearings

69.—(1) Upon the consent of the parties in an application under this Part, the court may make any order that the court is otherwise empowered to make by this Part, subject to the duty of the court to have regard to the best interests of the child.

Consent  
orders

(2) Any matter provided for in this Part and in a domestic contract as defined in the *Family Law Reform Act* may be incorporated in an order made under this Part.

Incorporation  
of contract  
in order  
R.S.O. 1980,  
c. 152

70. Where a domestic contract as defined in the *Family Law Reform Act* makes provision in respect of a matter that is provided for in this Part, the contract prevails except as otherwise provided in Part IV of the *Family Law Reform Act*.

Part subject  
to contracts

71. This Part does not deprive the Supreme Court of its *parens patriae* jurisdiction.

Jurisdiction  
of  
Supreme Court

Surrogate  
court

72. Where, in a proceeding in respect of an estate, an issue arises with respect to the custody of, access to or guardianship of the property of a child, a surrogate court may exercise the jurisdiction of a court under this Part.

Order made  
under  
R.S.O. 1980,  
c. 292

73. An application to vary an order made by a surrogate court under the *Minors Act* shall be made to a county or district court.

Place of  
application  
for interim  
order

74.—(1) An application for an interim order shall be made to the court in which the original proceeding was taken.

Place of  
application  
to vary  
order

(2) An application under this Part to vary an order may be made to the court in which the original proceeding was taken or to a co-ordinate court in another part of Ontario.

Interim  
order

75. In a proceeding under this Part, the court may make such interim order as the court considers appropriate.

Appeal from  
provincial  
court  
(family  
division)

76. An appeal from an order of a provincial court (family division) under this Part lies to the county or district court in the county or district in which the provincial court (family division) is situated.

Order  
effective  
pending  
appeal

77. An order under this Part is effective notwithstanding that an appeal is taken from the order, unless the court that made the order or the court to which the appeal is taken orders otherwise.

Rule of  
construction

78.—(1) For the purposes of construing any instrument, Act or regulation, unless the contrary intention appears, a reference to a guardian with respect to the person of a child shall be construed to refer to custody of the child and a reference to a guardian with respect to property of a child shall be construed to refer to guardianship of the property of the child.

Application

(2) Subsection (1) applies to any instrument, any Act of the Legislature or any regulation, order or by-law made under an Act of the Legislature enacted or made before, on or after the day this section comes into force.

Application  
of Part to  
order under  
R.S.O. 1980,  
cc. 292, 152;  
R.S.O. 1970,  
c. 128

79. This Part applies to an outstanding order for custody or guardianship of or access to a child made under the *Minors Act* (repealed by section 4 of the *Children's Law Reform Amendment Act, 1981*), the *Family Law Reform Act* or *The Deserted Wives' and Children's Maintenance Act* (repealed by *The Family Law Reform Act, 1978*) as if the order were made under this Part.

## COMPLEMENTARY AMENDMENTS

- 2.—(1) Paragraph 22 of subsection 1 (1) of the *Education Act*, being chapter 129, is repealed and the following substituted therefor: R.S.O. 1980,  
c. 129,  
s. 1 (1), par.  
22,  
re-enacted

22. “guardian” means a person who has lawful custody of a child, other than the parent of the child.

- (2) Section 17 of the said Act is amended by striking out “in law” s. 17,  
amended in the second line and inserting in lieu thereof “in section 1” and by striking out “or legal custody” in the fifth line.

- 3.—(1) Subsection 20 (1) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is amended by striking out “or custody” in the third line. R.S.O. 1980,  
c. 152,  
s. 20 (1),  
amended

- (2) Clause 26 (1) (b) of the said Act is amended by striking out “custody or access” in the second line. s. 26 (1) (b),  
amended

- (3) Section 35 of the said Act is repealed and the following substituted therefor: s. 35,  
re-enacted

35. An application for custody or access under the *Children’s Law Reform Act* may be joined with an application under this Act, but the court may direct that an application for support stand over until an application for custody has been determined. Joinder of  
actions  
R.S.O. 1980,  
c. 68

- 4.—(1) The *Minors Act*, being chapter 292 of the Revised Statutes of Ontario, 1980, is repealed. R.S.O. 1980,  
c. 292,  
repealed

- (2) Where an application is made under the *Minors Act* or under section 35 of the *Family Law Reform Act* before subsection (1) comes into force and no evidence has been heard in the proceeding before subsection (1) comes into force, other than in respect of an interim order, the application shall be deemed to be an application under the *Children’s Law Reform Act*, subject to such directions as the court considers appropriate. Application  
of subs. (1)  
to proceeding  
already  
commenced

- (3) Where an application referred to in subsection (2) is commenced in a surrogate court, the county or district court that has jurisdiction or, in the Judicial District of Hamilton-Wentworth, the Unified Family Court may order that the proceeding be removed to such county or district court or to the Unified Family Court, as the case may be, subject to such directions as the court considers appropriate. Where  
proceeding  
in surrogate  
court



R.S.O. 1980,  
c. 515  
Sched.,  
amended

5. The Schedule to the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following:

*"Children's Law  
Reform Act*

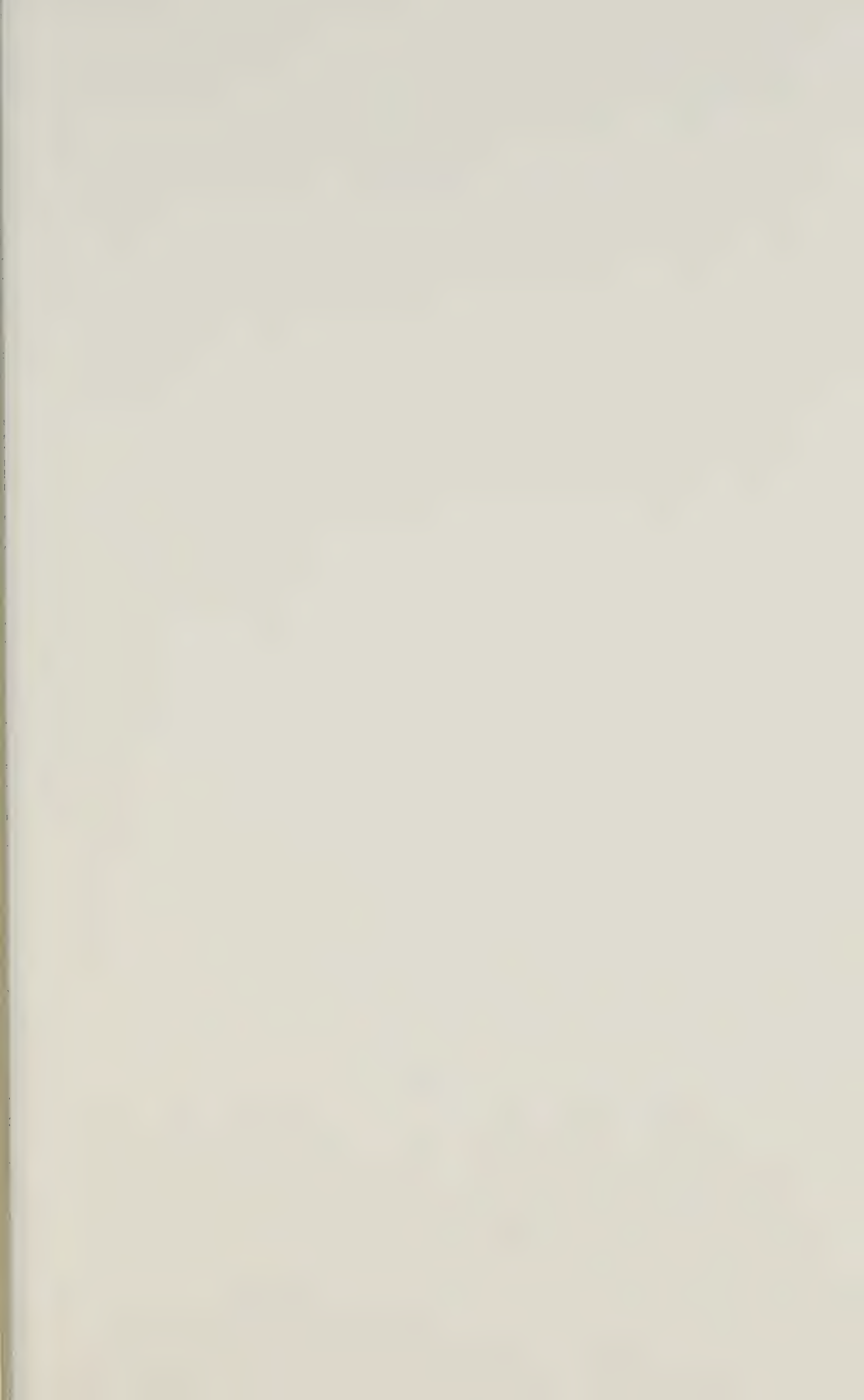
All, except sections 60 and 61"

Commence-  
ment

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

7. The short title of this Act is the *Children's Law Reform Amendment Act, 1982*.







An Act to amend the  
Children's Law Reform Act

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*1st Reading*

March 9th, 1982

*2nd Reading*

March 9th, 1982

*3rd Reading*

June 18th, 1982

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THE HON. R. MCMURTRY  
Attorney General

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**BILL 126**

Private Member's Bill

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2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

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**An Act to amend the Liquor Control Act**

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MR. SAMIS

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TORONTO

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#### EXPLANATORY NOTE

The purpose of the Bill is to enable independent grocery store owners to sell beer.



BILL 126

1982

## An Act to amend the Liquor Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,  
amended

(ca) "independent grocery store owner" means a person who owns a store at which the principal business is the sale of foodstuffs and who does not own or, under the terms of an agreement, participate in a chain or franchise undertaking consisting of more than three other grocery stores.

2. Section 3 of the said Act is amended by adding thereto the following clause: s. 3,  
amended

(ea) to authorize independent grocery store owners to sell beer from their grocery stores and to regulate their keeping for sale, sale and delivery of beer.

3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
4. The short title of this Act is the *Liquor Control Amendment Act*, Short title  
1982.

**BILL 126**

An Act to amend the Liquor Control Act

*1st Reading*

May 25th, 1982

*2nd Reading*

*3rd Reading*

MR. SAMIS

*(Private Member's Bill)*

36  
BILL 127

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY  
2

An Act to amend the  
Municipality of Metropolitan Toronto Act

THE HON. B. STEPHENSON  
Minister of Education and Minister of Colleges and Universities



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill contains amendments related to education.

SECTION 1. Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130*a* and following of the Act, set out in the Bill.

BILL 127

1982

## An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended, s. 116,  
amended

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L’Association des Enseignants Franco-Ontariens, if the major portion of the teacher’s teaching assignment is at the elementary school level,

(ii) The Federation of Women Teachers' Associations of Ontario, or

(iii) The Ontario Public School Men Teachers' Federation;

. . . . .

(f) "secondary school teacher" means a teacher who is a member of,

(i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or

(ii) The Ontario Secondary School Teachers' Federation.

s. 116,  
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-  
tation

(2) In this Part,

R.S.O. 1980,  
c. 464

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,  
c. 129

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

s. 118 (4),  
re-enacted

**2.** Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and  
term of  
office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 121 (3),  
amended

**3.** Subsection 121 (3) of the said Act is amended by striking out "or otherwise participate" in the seventh line.

s. 124 (1),  
re-enacted

**4.** Subsection 124 (1) of the said Act is repealed and the following substituted therefor:

Quorum  
voting

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the

SECTION 2. Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

SECTION 3. The subsection proposed to be amended is set out below showing underlined the words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

SECTION 4. The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.

Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.



SECTION 5. The subsection repealed reads as follows:

- (2) *The members of the School Board appointed by the Metropolitan Separate School Board, shall hold office for two years and until their successors are appointed.*

The new subsection more closely parallels the provisions of subsections 121 (4) and 125 (1) relative to the members of the School Board who are appointed by boards of education in the Metropolitan Area.

SECTION 6. Clause 127 (1) (f) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1a) to (1c) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the Metropolitan School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.

School Board present who are entitled to vote on any matter are necessary to carry such matter.

5. Subsection 125 (2) of the said Act is repealed and the following substituted therefor: s. 125 (2),  
re-enacted

(2) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have been held, and such members shall hold office until their successors take office and a new School Board is organized. Separate  
school repre-  
sentatives

- 6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines. s. 127 (1) (f),  
amended

- (2) Section 127 of the said Act is amended by adding thereto the following subsections: s. 127,  
amended

(1a) The School Board may pay, Allowances

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of members of boards of education in the Metropolitan Area next following the day of the determination. When  
applicable

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board. Decrease

Apportion-  
ment by  
School  
Board

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Reduction of  
apportionment

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by a portion of the surplus that, in the opinion of the School Board, is not less than the amount of the surplus that was raised by local taxation in the area municipality.

Increase of  
apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Calculation  
of  
apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

(a) that the total rateable property for public school purposes in respect of each area municipality bears to the

total rateable property in the Metropolitan Area for public school purposes; and

- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

(7) In this section,

Interpre-  
tation

- (a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;

R.S.O. 1980,  
c. 129

- (b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;

- (c) "total rateable property",

- (i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

7. The said Act is amended by adding thereto the following sections: ss. 130a-130i, enacted

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, Elementary school agreement

respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards.

Secondary  
school  
agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards.

Contents  
of  
agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined.

Joint  
negotiations  
by boards

130*b*.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130*a*.

Negotiating  
committee

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130*a* shall be carried out by a negotiating committee.

Composition  
of  
committee

(3) The negotiating committee shall be composed of,

- (a) one person appointed by the School Board, who shall be the chairman; and
- (b) six other persons, of whom one shall be appointed by each board of education.

Decisions  
by  
committee

(4) A decision of the majority of the members of the negotiating committee, representing the boards that employ the majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the negotiating committee.

Ratification  
by boards

(5) A decision by the negotiating committee is not effective until it is ratified by a majority of the boards employing the majority of the elementary school teachers or secondary school teachers, as the case requires.

Joint  
negotiations  
by elementary  
school branch  
affiliates

130*c*.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130*a*.





SECTION 7. New section 130*a* and following of the Act relate to collective negotiations between the School Boards (including the Metropolitan School Board) and teachers in Metropolitan Toronto.

New section 130*a* requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.

New sections 130*b* to 130*e* relate to the negotiation and ratification of the agreement.

New section 130*f* relates to the inclusion of additional provisions in an agreement mentioned in new section 130*a*.

New section 130*g* permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130*a*.

New section 130*i* authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130*a*. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.





SECTION 8. New section 130*j* authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130*a* subject to the conditions stated in subsections 130*j* (2) and (3).

Where the Metropolitan School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated at one mill in the dollar upon the total rateable property in the area municipality, new subsections 130*j* (4) and (5) require the termination of the employment of the additional teachers.

Subsection 130*j* (6) exempts a board of education acting under the section from the requirement under new section 130*i* of obtaining the consent of the Metropolitan School Board.

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) related to making or renewing an agreement mentioned in section 130*a* shall be carried out by a negotiating committee.

Negotiating  
committee

(3) The negotiating committee mentioned in subsection (2) shall be composed of as many members as there are branch affiliates mentioned in subsection (1), and each branch affiliate mentioned in subsection (1) shall appoint one person to be a member of the negotiating committee.

Composition

130*d*.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130*a*.

Joint  
negotiations  
by secondary  
school branch  
affiliates

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) related to making or renewing an agreement mentioned in section 130*a* shall be carried out by a negotiating committee.

Negotiating  
committee

(3) The negotiating committee mentioned in subsection (2) shall be composed of as many members as there are branch affiliates mentioned in subsection (1), and each branch affiliate mentioned in subsection (1) shall appoint one person to be a member of the negotiating committee.

Composition

130*e*.—(1) A decision of the majority of the members of a committee negotiating on behalf of branch affiliates, representing the majority of the elementary school teachers or secondary school teachers (as the case requires) employed by the board, is the decision of the negotiating committee.

Decision of  
teachers'  
negotiating  
committee

(2) A decision by a committee negotiating on behalf of branch affiliates is not effective until it is ratified by a majority of the branch affiliates representing the majority of the elementary school teachers or secondary school teachers, as the case requires, employed by the boards.

Ratification  
by branch  
affiliates

130*f*.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130*a* any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards.

Additional  
provision of  
elementary  
school  
agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130*a* any other term or condition of employment of the teachers that is

Additional  
provision of  
secondary  
school  
agreement

agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Elementary  
school local  
agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary  
school local  
agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Priority

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

R.S.O. 1980,  
c. 464

Application of  
R.S.O. 1980,  
c. 464

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application  
of Part

(2) No agreement between a board and a branch affiliate is valid on or after the 1st day of September, 1983 unless the agreement is made or renewed in accordance with this Part.

Consent of  
School  
Board

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a without the consent expressed by resolution of the School Board.

Condition  
precedent

(2) The School Board shall not consider giving a consent mentioned in subsection (1) until each board of education by resolution has consented to the implementation of the term or condition of employment.

Direction  
by O.L.R.B.

(3) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a without the consent by resolution of the School Board, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

(4) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court. Enforcement

(5) The *Labour Relations Act* applies, with necessary modifications, in respect of proceedings before the Ontario Labour Relations Board under this section. Application of  
R.S.O. 1980,  
c. 228

8. The said Act is further amended by adding thereto the following section: s. 130 j,  
enacted

130 j.—(1) In this section, Interpretation

- (a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;
- (b) “last revised assessment roll” means the last revised assessment roll for the area municipality in which the board of education has jurisdiction;
- (c) “school year” has the same meaning as in the *Education Act*; R.S.O. 1980,  
c. 129
- (d) “total rateable property” means “total rateable property” as defined in section 127.

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers, Employment  
of additional  
teachers

- (a) is not included in the portion of the estimates of the board of education approved by the School Board; and
- (b) does not exceed a sum calculated at one mill in the dollar upon the total rateable property for public elementary (in the case of elementary school teachers) or secondary school (in the case of secondary school teachers) purposes according to the last revised assessment roll.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced, Limitation

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination of  
employment,  
additional  
elementary  
school  
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property according to the last revised assessment roll for public elementary school purposes, the board of education,

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination of  
employment,  
secondary  
school  
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property according to the last revised assessment roll for secondary school purposes, the board of education,

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Application of  
s. 130i

(6) A board of education may act under subsections (2) and (3) without the consent of the School Board mentioned in section 130i.

s. 133 (1),  
amended

**9.—**(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the

SECTION 9.—Subsection 1. Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (e) is complementary to new section 130i set out in this Bill.



Subsection 2. Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from the Metropolitan School Board.

Clauses 133 (4) (a) and (b) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

SECTION 10. Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

SECTION 11. The amendments related to estimates and apportionments will apply to 1983 and subsequent years.

number of teachers to be employed by the board is determined.

- (2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor: s. 133 (4)  
(a, b),  
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor: s. 219 (3, 4),  
re-enacted

(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under subsection 127 (7). Elementary  
school  
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under subsection 127 (7). Secondary  
school  
purposes

- 11.—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years: Application  
of certain  
sections

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.

3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.

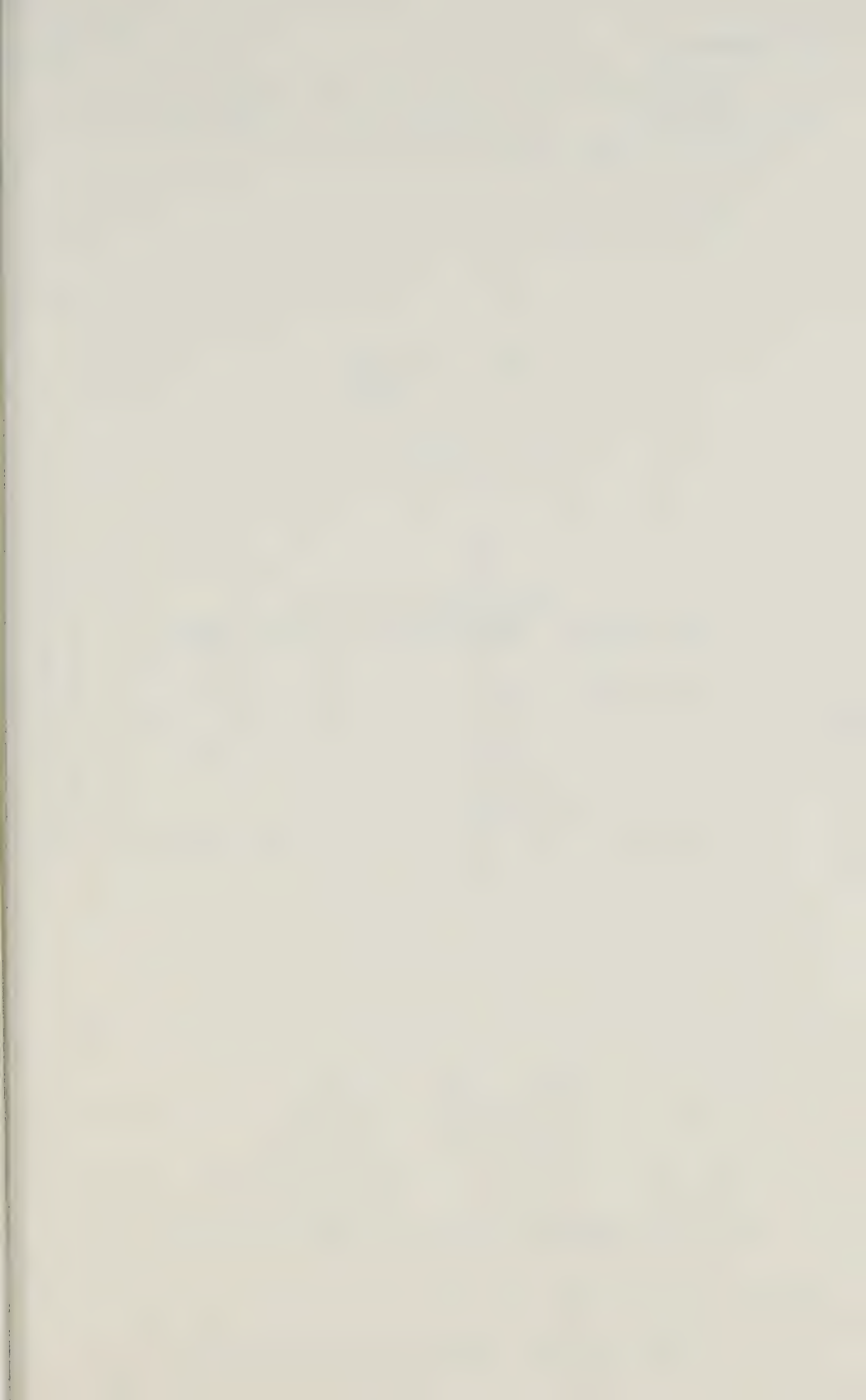
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem (2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-  
ment **12.**—(1) This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem (2) Section 8 comes into force on the 1st day of January, 1983.

Short title **13.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1982*.



# BILL 127

An Act to amend the Municipality  
of Metropolitan Toronto Act

*1st Reading*

May 28th, 1982

*2nd Reading*

*3rd Reading*

THE HON. B. STEPHENSON  
Minister of Education and Minister of  
Colleges and Universities

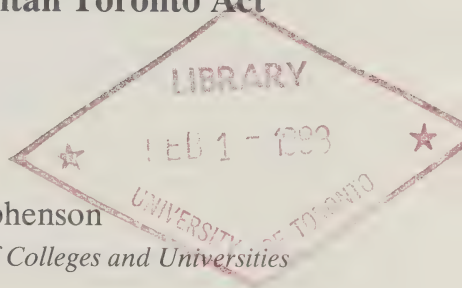
(Government Bill)

# Bill 127

(Chapter  
*Statutes of Ontario, 1983*)

## **An Act to amend the Municipality of Metropolitan Toronto Act**

**The Hon. B. Stephenson**  
*Minister of Education and Minister of Colleges and Universities*



*1st Reading*      May 28th, 1982

*2nd Reading*      June 28th, 1982

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*

## EXPLANATORY NOTES

The Bill contains amendments related to education.

**SECTION 1.** Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130a and following of the Act, set out in the Bill.

**SECTION 2.—Subsection 1.** Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

**Subsection 2.** The subsection provides that the term of office of members elected in 1982 will be for three years.

**SECTION 3.** The subsection proposed to be amended is set out below showing underlined the words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

**SECTION 4.** The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.

Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.

**SECTION 5.** Section 125 of the Act deals with the term of office of members of the School Board. The section is re-enacted to provide for resignations and to make the provisions related to members of the School Board appointed by the Metropolitan Separate School Board more closely parallel those related to members appointed by boards of education.

**SECTION 6.** Clause 127 (1) (f) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1a) to (1c) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.

**SECTION 7.** New section 130a and following of the Act relate to collective negotiations between the boards (including The Metropolitan Toronto School Board) and teachers in Metropolitan Toronto.

New section 130a requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.



New sections 130b to 130e relate to the negotiation and ratification of the agreement.

New section 130f relates to the inclusion of additional provisions in an agreement mentioned in new section 130a.

New section 130g permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

New section 130h relates to the relationship between the Act and the *School Boards and Teachers Collective Negotiations Act*. The section also contains transitional provisions related to the application of new sections 130a to 130i and specifies that the section is subject to the *Inflation Restraint Act, 1982* (Bill 179).

New section 130i authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.

**SECTION 8.** New section 130j authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130a subject to the conditions stated in subsections 130j (2) and (3).

Where the School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated, in the case of elementary school teachers, at one and one-half mills in the dollar and, in the case of secondary school students, at one mill in the dollar upon the total rateable property in the area municipality according to the assessment roll on which taxes were levied in 1983, new subsections 130j (4) and (5) require the termination of the employment of the additional teachers.

New subsection 130j (6) is a transitional provision that will enable the School Board to provide an initial basis for calculating the numbers of additional teachers.

**SECTION 9.—Subsection 1.** Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (e) is complementary to new section 130i set out in this Bill.

**Subsection 2.** Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from The Metropolitan Toronto School Board.

Clauses 133 (4) (a) and (b) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

**SECTION 10.** Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

**SECTION 11.** The amendments related to estimates and apportionments will apply to 1983 and subsequent years.



Bill 127

1982

**An Act to amend the  
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Section 116 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended, s. 116,  
amended

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,
- (ii) The Federation of Women Teachers' Associations of Ontario, or
- (iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or
- (ii) The Ontario Secondary School Teachers' Federation.

s. 116,  
amended

**(2) The said section 116 is further amended by adding thereto the following subsection:**

Interpre-  
tation

(2) In this Part,

R.S.O. 1980,  
c. 464

- (a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,  
c. 129

- (b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

s. 118 (4),  
re-enacted

**2.—(1) Subsection 118 (4) of the said Act is repealed and the following substituted therefor:**

Election and  
term of office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

Transitional

(2) The members of the boards of education mentioned in section 118 of the said Act elected to office in the regular election in 1982 shall hold office for a term of three years and until their successors are elected and a new board organized.

**3. Subsection 121 (3) of the said Act is amended by striking out “or otherwise participate” in the seventh line.** s. 121 (3), amended

**4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:** s. 124 (1), re-enacted

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter. Quorum voting

**5. Section 125 of the said Act is repealed and the following substituted therefor:** s. 125, re-enacted

**125.**—(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman of board of education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation by member of School Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have Members appointed by Metropolitan Separate School Board



been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized.

Resignation  
of member  
appointed by  
Metropolitan  
Separate  
School Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent,

(a) of the Metropolitan Separate School Board; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),  
amended

**6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.**

s. 127,  
amended

**(2) Section 127 of the said Act is amended by adding thereto the following subsections:**

Allowances

(1a) The School Board may pay,

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When  
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of

members of boards of education in the Metropolitan Area next following the day of the determination.

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Decrease

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Apportionment by School Board

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for

Calculation of apportionment



secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-  
tation

R.S.O. 1980,  
c. 129

(7) In this section,

(a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;

(b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;

(c) "total rateable property",

(i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

(B) commercial assessment, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

**7. The said Act is amended by adding thereto the following sections:** ss. 130a-130i, enacted

**130a.**—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards. Elementary school agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards. Secondary school agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. Contents of agreement

(4) In this section, “financial benefits” means, Interpretation

(a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;

(b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and R.S.C. 1980, c. 148

(c) an insured employee benefit.

**130b.**—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a. Joint negotiations by boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the Committee

direction of a committee with each of the boards appointing one member of the committee.

Decisions by  
committee

(3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee.

Ratification  
by boards

(4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires.

Replacement  
of member of  
committee

(5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed.

Joint negoti-  
ations by  
elementary  
school  
branch  
affiliates

**130c.**—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-  
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Joint negoti-  
ations by  
secondary  
school  
branch  
affiliates

**130d.**—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee

(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appoint-  
ments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

**130e.**—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures. Committee

(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified, Ratification

- (a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and
- (b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

**130f.**—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards. Additional provision of elementary school agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards. Additional provision of secondary school agreement

**130g.**—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a. Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a. Secondary school local agreement



Priority

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

R.S.O. 1980,  
c. 464Separate  
proceedings

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Application  
of  
R.S.O. 1980,  
c. 464

**130h.**—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application  
of ss. 130a to  
130i

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Term of  
agreement

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Application  
of Part

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is valid unless the agreement is made or renewed in accordance with this Part.

Application  
of 1982, c. 55

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not to  
implement  
variant term  
or condition  
of  
employment  
Direction by  
O.L.R.B.

**130i.**—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or

refrain from doing with respect to the term or condition of employment.

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Enforcement

(4) The *Labour Relations Act* applies with necessary modifications in respect of proceedings before the Ontario Labour Relations Board under this section.

Application of  
R.S.O. 1980,  
c. 228

**8. The said Act is further amended by adding thereto the following section:**

s. 130j,  
enacted

**130j.**—(1) In this section,

Interpre-  
tation

- (a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;
  - (b) “school year” has the same meaning as in the *Education Act*;
  - (c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).
- R.S.O. 1980,  
c. 129

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

Employment  
of additional  
teachers

- (a) is not included in the portion of the estimates of the board of education approved by the School Board; and
- (b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983.

## Limitation

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced,

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination  
of  
employment,  
additional  
elementary  
school  
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination  
of  
employment,  
secondary  
school  
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determi-  
nation as to  
number of  
teachers

(6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force,



the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.

**9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:** s. 133 (1),  
amended

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

**(2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:** s. 133 (4) (a,  
b),  
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

**10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:** s. 219 (3, 4),  
re-enacted

- (3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Elementary  
school  
purposes

Secondary  
school  
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Application  
of certain  
sections

**11.—(1)** The following apply only in respect of estimates and apportionments in 1983 and subsequent years:

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-  
ment

**12.—(1)** This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 comes into force on the 1st day of January, 1983.

Short title

**13.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.





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BILL 127

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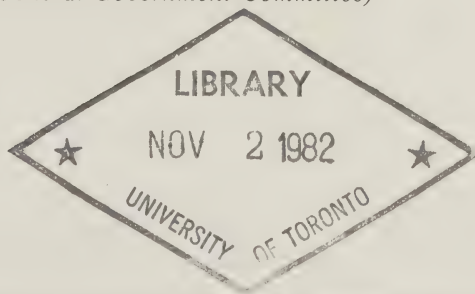
Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO. *UNAMENDED BILL*  
31 ELIZABETH II, 1982 7 2

An Act to amend the  
Municipality of Metropolitan Toronto Act

THE HON. B. STEPHENSON  
Minister of Education and Minister of Colleges and Universities

*(Reprinted as amended by the General Government Committee)*



TORONTO

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#### EXPLANATORY NOTE

The Bill contains amendments related to education.

SECTION 1. Section 116 is the interpretation section for Part VIII. The additions are complementary to new section 130*a* and following of the Act, set out in the Bill.

BILL 127

1982

## An Act to amend the Municipality of Metropolitan Toronto Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, <sup>s. 116, amended</sup> being chapter 314 of the Revised Statutes of Ontario, 1980, is amended,

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,



(ii) The Federation of Women Teachers' Associations of Ontario, or

(iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

(i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or

(ii) The Ontario Secondary School Teachers' Federation.

s. 116,  
amended

(2) The said section 116 is further amended by adding thereto the following subsection:

Interpre-  
tation

(2) In this Part,

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,  
c. 464

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

R.S.O. 1980,  
c. 129

s. 118 (4),  
re-enacted

2. Subsection 118 (4) of the said Act is repealed and the following substituted therefor:

Election and  
term of  
office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

s. 121 (3),  
amended

3. Subsection 121 (3) of the said Act is amended by striking out "or otherwise participate" in the seventh line.

s. 124 (1),  
re-enacted

4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:

Quorum  
voting

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the

SECTION 2. Subsection 118 (4) of the Act now provides for a two-year term of office. The effect of the amendment is that the term of office will be governed by the *Municipal Elections Act*.

SECTION 3. The subsection proposed to be amended is set out below showing underlined the words to be deleted:

- (3) *The Board of Education for the Borough of East York, The Board of Education for the Borough of Etobicoke and The Board of Education for the Borough of York may each appoint one of its members as an alternate member of the School Board, and such alternate member may attend the meetings of the School Board and of its committees, but shall not vote or otherwise participate in the meetings of the School Board or of its committees except in the absence of the chairman of the board of education to which such member belongs or of the member appointed in place of the chairman under subsection (6).*

The effect of the amendment will be to permit an alternate member of The Metropolitan Toronto School Board to participate in meetings of the School Board or of its committees that he attends; the prohibition against an alternate member voting is retained.

SECTION 4. The effect of the re-enactment of the subsection is to increase from eight to ten the number of members required to form a quorum when the School Board is dealing with matters affecting public schools exclusively and to increase from ten to eleven the number required to form a quorum in all other cases.


Over the years the School Board has been increased in size from 19 (16 and 3) to 20 (17 and 3) to the present 21 (18 and 3) members and it is appropriate that the quorum be increased accordingly.



SECTION 5. Section 125 of the Act deals with the term of office of members of the School Board. The section is re-enacted to provide for resignations and to make the provisions related to members of the School Board appointed by the Metropolitan Separate School Board more closely parallel those related to members appointed by boards of education.



School Board present who are entitled to vote on any matter are necessary to carry such matter.

-  5. Section 125 of the said Act is repealed and the following substituted therefor: s. 125,  
re-enacted

125.—(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of  
office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman  
of board of  
education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation  
by member  
of School  
Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized. Members  
appointed  
by Metro-  
politan  
Separate  
School  
Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent, Resignation  
of member  
appointed  
by Metro-  
politan  
Separate  
School  
Board

(a) of the Metropolitan Separate School Board; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),  
amended

6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.

s. 127,  
amended

(2) Section 127 of the said Act is amended by adding thereto the following subsections:

Allowances

(1a) The School Board may pay,

(a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;

(b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and

(c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When  
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of members of boards of education in the Metropolitan Area next following the day of the determination.

Decrease

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Apportion-  
ment by  
School  
Board

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined

SECTION 6. Clause 127 (1) (*f*) of the Act is amended to remove the maximum amounts of allowances that may be paid to members and the chairman of the School Board. New subsections 127 (1*a*) to (1*c*) are added to permit an outgoing School Board to determine the amounts of allowances to members, alternate members and the chairman of succeeding School Boards. The School Board may decrease the amount of allowance authorized by a predecessor School Board.

New subsections 127 (3) to (7) of the Act require the School Board to apportion its estimates of amounts required for public elementary school purposes and secondary school purposes to the area municipalities and set out the method of calculating the apportionments.





shall be apportioned to each area municipality in accordance with subsection (6).

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of  
apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of  
apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

Calculation  
of  
apportionment

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to

the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-  
tation

(7) In this section,

R.S.O. 1980,  
c. 129

(a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;

(b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;

(c) "total rateable property",

(i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

| (B) commercial assessment, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

(ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

ss. 130a-130i,  
enacted

7. The said Act is amended by adding thereto the following sections:

Elementary  
school  
agreement

130a.—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards.

Secondary  
school  
agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement,

SECTION 7. New section 130*a* and following of the Act relate to collective negotiations between the boards (including The Metropolitan Toronto School Board) and teachers in Metropolitan Toronto.

New section 130*a* requires joint negotiations and a joint agreement between the boards and the branch affiliates at the elementary school level in respect of terms and conditions of employment in relation to salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. A similar requirement applies to negotiations and agreement at the secondary school level.

New sections 130*b* to 130*e* relate to the negotiation and ratification of the agreement.

New section 130*f* relates to the inclusion of additional provisions in an agreement mentioned in new section 130*a*.

New section 130*g* permits a board and a branch affiliate to negotiate and enter into an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130*a*.

New section 130*h* relates to the relationship between the Act and the *School Boards and Teachers Collective Negotiations Act*. The section also contains transitional provisions related to the application of new sections 130*a* to 130*i* and specifies that the section is subject to the *Inflation Restraint Act, 1982* (Bill 179).

New section 130*i* authorizes the Ontario Labour Relations Board, on application by a board, to give directions where the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130*a*. A direction by the Ontario Labour Relations Board will be enforceable in the same way as a judgment or order of the Supreme Court.




respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards.

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. Contents of agreement

(4) In this section, "financial benefits" means, Interpretation

(a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;

(b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and R.S.C. 1952, c. 148


(c) an insured employee benefit. 

130b.—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a. Joint negotiations by boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the direction of a committee with each of the boards appointing one member of the committee. Committee

(3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee. Decisions by committee

(4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires. Ratification by boards

(5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed. Replacement of member of committee 

Joint  
negotiations  
by elementary  
school branch  
affiliates

130c.—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee



(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appointments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Joint  
negotiations  
by secondary  
school branch  
affiliates

130d.—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.

Committee



(2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.

Appointments

(3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).

Committee



130e.—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures.

Ratification

(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified,

(a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and

(b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

Additional  
provision of  
elementary  
school  
agreement

130f.—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the



branch affiliates that represent the elementary school teachers employed by the boards.

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Additional provision of secondary school agreement

130g.—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary school local agreement

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a (1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

Priority

R.S.O. 1980, c. 464

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Separate proceedings

130h.—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application of R.S.O. 1980, c. 464

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Application of ss. 130a to 130i

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Term of agreement

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is

Application of Part



valid unless the agreement is made or renewed in accordance with this Part.

Application of  
1982, c. . . .

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not  
to implement  
variant term  
or condition  
of employ-  
ment

130i.—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

Direction  
by O.L.R.B.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

Enforcement

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Application of  
R.S.O. 1980,  
c. 228

(4) The *Labour Relations Act* applies, with necessary modifications, in respect of proceedings before the Ontario Labour Relations Board under this section.

s. 130 j,  
enacted

8. The said Act is further amended by adding thereto the following section:

Interpretation

130 j.—(1) In this section,

(a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;

R.S.O. 1980,  
c. 129

(b) “school year” has the same meaning as in the *Education Act*;

(c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).

Employment  
of additional  
teachers

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

(a) is not included in the portion of the estimates of the board of education approved by the School Board; and

SECTION 8. New section 130j authorizes a board of education to employ more teachers than are provided for in an agreement under new section 130a subject to the conditions stated in subsections 130j (2) and (3).

Where the School Board increases the apportionment to an area municipality under new subsection 127 (5) to include a deficit of a board of education in a previous year and the amount of the increase exceeds a sum calculated, in the case of elementary school teachers, at one and one-half mills in the dollar and, in the case of secondary school students, at one mill in the dollar upon the total rateable property in the area municipality according to the assessment roll on which taxes were levied in 1982, new subsections 130j (4) and (5) require the termination of the employment of the additional teachers.



New subsection 130j (6) is a transitional provision that will enable the School Board to provide an initial basis for calculating the numbers of additional teachers





- (b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1982 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1982.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the employment of the additional teachers limited by clause (2) (b) shall be reduced,

Limitation

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1982, the board of education,

Termination of employment, additional elementary school teachers

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1982, the board of education,

Termination of employment, secondary school teachers

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and

- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determination  
as to  
number of  
teachers



- (6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force, the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.



s. 133 (1),  
amended

- 9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

s. 133 (4)  
(a, b),  
re-enacted

- (2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

s. 219 (3, 4),  
re-enacted

10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:

SECTION 9.—Subsection 1. Subsection 133 (1) of the Act sets out the matters to be included in the annual estimates of a board of education in the Metropolitan Area. New clause 133 (1) (*e*) is complementary to new section 130*i* set out in this Bill.

Subsection 2. Subsection 133 (4) of the Act authorizes a board of education to submit to the council of the area municipality in which it has jurisdiction the estimates of the board after making allowance for the revenues to be derived from The Metropolitan Toronto School Board.

Clauses 133 (4) (*a*) and (*b*) limit the amounts that may be included for elementary school purposes and secondary school purposes in the estimates submitted by a board of education to the council of an area municipality. The amendment provides a formula for calculating the limit related to the amendments to section 127 of the Act.

SECTION 10. Subsections 219 (3) and (4) of the Act relate to the apportionment among the area municipalities of the amount levied by the Metropolitan Council for public school purposes and secondary school purposes. The subsections are re-enacted to relate to the amendments to section 127 of the Act.

SECTION 11. The amendments related to estimates and apportionments will apply to 1983 and subsequent years.



(3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Elementary school purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Secondary school purposes

**11.**—(1) The following apply only in respect of estimates and apportionments in 1983 and subsequent years: Application of certain sections

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982. Idem

**12.**—(1) This Act, except section 8, comes into force on the day it receives Royal Assent. Commencement

(2) Section 8 comes into force on the 1st day of January, 1983. Idem

**13.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1982*. Short title





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An Act to amend the Municipality  
of Metropolitan Toronto Act

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*1st Reading*

May 28th, 1982

*2nd Reading*

June 28th, 1982

*3rd Reading*

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THE HON. B. STEPHENSON  
Minister of Education and Minister of  
Colleges and Universities

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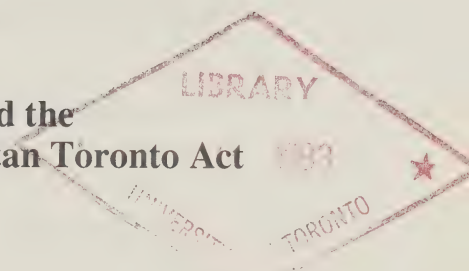
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General Government Committee)*

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# Bill 127

(Chapter 9  
*Statutes of Ontario, 1983*)

## An Act to amend the Municipality of Metropolitan Toronto Act



The Hon. B. Stephenson

*Minister of Education and Minister of Colleges and Universities*

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<i>1st Reading</i>	May 28th, 1982
<i>2nd Reading</i>	June 28th, 1982
<i>3rd Reading</i>	February 23rd, 1983
<i>Royal Assent</i>	February 23rd, 1983

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**Bill 127****1982**

**An Act to amend the  
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Section 116 of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended,** s. 116,  
amended

(a) by relettering clauses (a) and (b) as (bb) and (bc); and

(b) by adding thereto the following clauses:

(a) “boards” means the School Board and the boards of education;

(b) “boards of education” means the following:

1. The Board of Education for the Borough of East York.
2. The Board of Education for the Borough of Etobicoke.
3. The Board of Education for the City of North York.
4. The Board of Education for the Borough of Scarborough.
5. The Board of Education for the City of Toronto.
6. The Board of Education for the Borough of York;

(ba) “elementary school teacher” means a teacher who is a member of,



- (i) L'Association des Enseignants Franco-Ontariens, if the major portion of the teacher's teaching assignment is at the elementary school level,
- (ii) The Federation of Women Teachers' Associations of Ontario, or
- (iii) The Ontario Public School Men Teachers' Federation;

(f) "secondary school teacher" means a teacher who is a member of,

- (i) L'Association des Enseignants Franco-Ontariens, if less than the major portion of the teacher's teaching assignment is at the elementary school level, or
- (ii) The Ontario Secondary School Teachers' Federation.

s. 116,  
amended

**(2) The said section 116 is further amended by adding thereto the following subsection:**

Interpre-  
tation

(2) In this Part,

R.S.O. 1980,  
c. 464

(a) "agreement" (in relation to the employment of teachers), "branch affiliate" and "teacher" have the same meanings as in the *School Boards and Teachers Collective Negotiations Act*; and

R.S.O. 1980,  
c. 129

(b) "elementary school" and "secondary school" have the same meanings as in the *Education Act*.

s. 118 (4),  
re-enacted

**2.—(1) Subsection 118 (4) of the said Act is repealed and the following substituted therefor:**

Election and  
term of office

(4) The election of members of the boards of education shall be conducted by the same officers and in the same manner as elections of members of the council of a municipality.

Transitional

(2) The members of the boards of education mentioned in section 118 of the said Act elected to office in the regular election in 1982 shall hold office for a term of three years and until their successors are elected and a new board organized.

**3. Subsection 121 (3) of the said Act is amended by striking out “or otherwise participate” in the seventh line.** s. 121 (3), amended

**4. Subsection 124 (1) of the said Act is repealed and the following substituted therefor:** s. 124 (1), re-enacted

(1) Ten members of the School Board are necessary to form a quorum when the School Board is dealing with matters that affect public schools exclusively and eleven members of the School Board are necessary to form a quorum in all other cases, and the concurring votes of a majority of the members of the School Board present who are entitled to vote on any matter are necessary to carry such matter. Quorum voting

**5. Section 125 of the said Act is repealed and the following substituted therefor:** s. 125, re-enacted

**125.—**(1) Except as provided in this section and in subsection 126 (5), the members of the School Board appointed by boards of education shall hold office while they are members of their respective boards of education and until their successors take office and a new board is organized. Term of office

(2) Where as a result of a change in the chairmanship of a board of education, a member of the board of education who is also a member of the School Board becomes chairman of such board of education, his seat on the School Board, otherwise than as chairman of the board of education, becomes vacant, and another member of the board of education shall be appointed to fill the vacancy. Chairman of board of education

(3) A member of the School Board appointed by a board of education and who is not the chairman of the School Board may, with the consent, Resignation by member of School Board

(a) of the board of education that appointed him; and

(b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member without resigning from the board of education, but he shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum under subsection 124 (1).

(4) The appointment of members of the School Board by the Metropolitan Separate School Board shall be made at the first meeting of the Metropolitan Separate School Board in each year after the regular elections in the area municipalities have Members appointed by Metropolitan Separate School Board

been held, and such members, except as provided in subsection (5) and subsection 126 (5), shall hold office until their successors take office and a new School Board is organized.

Resignation  
of member  
appointed by  
Metropolitan  
Separate  
School Board

(5) A member of the School Board appointed by the Metropolitan Separate School Board may, with the consent,

- (a) of the Metropolitan Separate School Board; and
- (b) of a majority of the members of the School Board present at a meeting, entered upon the minutes of it,

resign as a member, but shall not vote on a motion as to his own resignation and may not resign as a member of the School Board if his resignation will reduce the number of members of the School Board to less than a quorum for secondary school purposes.

s. 127 (1) (f),  
amended

**6.—(1) Clause 127 (1) (f) of the said Act is amended by striking out “and to pay to each member who is a member of a board of education an allowance not exceeding \$2,400 per annum and to each member appointed by the Metropolitan Separate School Board an allowance not exceeding \$1,200 per annum, and to the chairman of the School Board an additional allowance not exceeding one-third of the allowance paid to him as a member of the School Board” in the fifth to twelfth lines.**

s. 127,  
amended

**(2) Section 127 of the said Act is amended by adding thereto the following subsections:**

Allowances

(1a) The School Board may pay,

- (a) to each member of the School Board an allowance in such amount as is determined by the School Board for members;
- (b) to each alternate member of the School Board an allowance in such amount as is determined by the School Board for alternate members; and
- (c) to the chairman of the School Board, in addition to the allowance under clause (a) or (b), an allowance in such amount as is determined by the School Board for the chairman.

When  
applicable

(1b) A determination under subsection (1a) applies only in respect of allowances to members, alternate members and the chairman of the School Board after the regular election of

members of boards of education in the Metropolitan Area next following the day of the determination.

(1c) The School Board may decrease the amount of an allowance determined under subsection (1a) and the decrease is effective on the date specified by the School Board.

Decrease

. . . . .

(3) When the School Board submits its estimates for public elementary school purposes and for secondary school purposes to the Metropolitan Council, the School Board shall also provide the Metropolitan Council with a statement of the portions of the amount required for public elementary school purposes and for secondary school purposes that the School Board has determined shall be apportioned to each area municipality in accordance with subsection (6).

Apportionment by School Board

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall, except where it considers that the surplus is attributable to the provision of moneys pursuant to clause 133 (9) (b), reduce the apportionment for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction by an amount that, in the opinion of the School Board, is equal to the portion of the surplus that was raised by local taxation in the area municipality.

Reduction of apportionment

(5) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area provide for a deficit of a previous year and the estimates have been approved by the School Board in whole or in part, the School Board shall increase the apportionment that would otherwise be made for public elementary or for secondary school purposes, as the case may be, to the area municipality in which the board of education has jurisdiction, by an amount that does not exceed the amount of the deficit, and in determining the amount of the increase in the apportionment the School Board shall give consideration to any circumstances that, in the opinion of the School Board, contributed to the size of the deficit and could not reasonably have been foreseen.

Increase of apportionment

(6) For the purpose of determining the apportionment to the area municipalities in the Metropolitan Area of the sums required for public elementary and for secondary school purposes, the School Board shall remove from the amount of its estimates submitted separately for public elementary and for

Calculation of apportionment



secondary school purposes to the Metropolitan Council under clause (1) (g) the portions of the surpluses to be used for reducing apportionments under subsection (4) and the portions of the deficits to be used for increasing apportionments under subsection (5) and shall apportion the remainder of the amount of the estimates for public elementary and for secondary school purposes, as the case may be, in the proportion,

- (a) that the total rateable property for public school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for public school purposes; and
- (b) that the total rateable property for secondary school purposes in respect of each area municipality bears to the total rateable property in the Metropolitan Area for secondary school purposes,

and each apportionment so determined shall then be adjusted by the School Board by reduction under subsection (4) or increase under subsection (5).

Interpre-  
tation

(7) In this section,

R.S.O. 1980,  
c. 129

- (a) "commercial assessment" has the same meaning as in clause 220 (a) of the *Education Act*;
- (b) "residential and farm assessment" has the same meaning as in clause 220 (b) of the *Education Act*;
- (c) "total rateable property",

(i) in relation to an area municipality, means the sum of,

(A) residential and farm assessment,

(B) commercial assessment, and

(C) the valuations of properties in respect of which a portion of the payments in lieu of taxes paid by the Crown in right of Canada or a province or any board, commission, corporation or other agency of the Crown in right of Canada or a province or by Ontario Hydro is required by law to be allocated for school purposes,

in the area municipality, and

- (ii) in relation to the Metropolitan Area, means the sum of the total rateable property of the area municipalities in the Metropolitan Area.

7. The said Act is amended by adding thereto the following sections: ss. 130a-130i, enacted

**130a.**—(1) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the branch affiliates that represent the elementary school teachers employed by the boards. Elementary school agreement

(2) There shall be only one agreement at any one time, and only one set of negotiations to make or renew the agreement, respecting the terms and conditions of employment described in subsection (3) between the boards and the secondary school teachers employed by the boards. Secondary school agreement

(3) The terms and conditions of employment referred to in subsections (1) and (2) are salaries and financial benefits of teachers and the method by which the number of teachers to be employed by a board is determined. Contents of agreement

(4) In this section, “financial benefits” means, Interpretation

- (a) compensation other than salary payable or provided directly or indirectly except money paid in reimbursement of expenses incurred in the performance of duties;
- (b) a benefit that, at the date the agreement under which the benefit is provided is ratified, has a value that is required to be included in income under the *Income Tax Act* (Canada); and
- (c) an insured employee benefit.

R.S.C. 1980, c. 148

**130b.**—(1) The School Board and the boards of education shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a. Joint negotiations by boards

(2) Negotiations on behalf of the School Board and the boards of education related to making or renewing an agreement mentioned in section 130a shall be carried out under the direction of a committee with each of the boards appointing one member of the committee. Committee

- Decisions by committee (3) A decision by the majority of the members of the committee, representing together the employers of a majority of the elementary school teachers or secondary school teachers (as the case requires), is the decision of the committee.
- Ratification by boards (4) A decision by the committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified by a majority of the boards and the majority employs the majority of the elementary school teachers or secondary school teachers, as the case requires.
- Replacement of member of committee (5) The School Board may remove from the committee a person appointed by the School Board and a board of education may remove from the committee a person appointed by the board of education, but the School Board or board of education (as the case requires) shall appoint another person to the committee in the place of the person removed.
- Joint negotiations by elementary school branch affiliates **130c.**—(1) The branch affiliates that represent the elementary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.
- Committee (2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.
- Appointments (3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).
- Joint negotiations by secondary school branch affiliates **130d.**—(1) The branch affiliates that represent the secondary school teachers employed by the boards shall act together as one party in negotiations and proceedings related to making or renewing an agreement mentioned in section 130a.
- Committee (2) Negotiations on behalf of the branch affiliates mentioned in subsection (1) shall be carried out under the direction of a committee, with each of the branch affiliates appointing one member of the committee.
- Appointments (3) Two or more branch affiliates may each appoint the same person to be a member of the committee under subsection (2).
- Committee **130e.**—(1) A committee directing negotiations on behalf of branch affiliates may determine its own procedures.



(2) A decision by a committee to approve an agreement mentioned in section 130a is not effective until the decision is ratified,

Ratification

- (a) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who are employed by the boards and participate in the ratification vote; and
- (b) by a majority of the elementary school teachers or secondary school teachers, as the case may be, who participate in the ratification vote mentioned in clause (a) conducted among the elementary school teachers or secondary school teachers, as the case may be, employed by each of a majority of the boards.

**130f.**—(1) The boards and the branch affiliates that represent the elementary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the elementary school teachers employed by the boards.

Additional provision of elementary school agreement

(2) The boards and the branch affiliates that represent the secondary school teachers employed by the boards may include in an agreement between them mentioned in section 130a any other term or condition of employment of the teachers that is agreed upon by the School Board, all the boards of education and all the branch affiliates that represent the secondary school teachers employed by the boards.

Additional provision of secondary school agreement

**130g.**—(1) A board and the branch affiliates that represent the elementary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Elementary school local agreement

(2) A board and the branch affiliates that represent the secondary school teachers employed by the board may negotiate and enter into or renew an agreement respecting a term or condition of employment that is not within the scope of the negotiations or the agreement mentioned in section 130a.

Secondary school local agreement

(3) No board or branch affiliate shall make or renew an agreement respecting a term or condition mentioned in subsection (1) or (2) until an agreement mentioned in subsection 130a

Priority

R.S.O. 1980,  
c. 464

(1) or (2), as the case requires, is made or renewed in accordance with this Part and the *School Boards and Teachers Collective Negotiations Act*.

Separate  
proceedings

(4) Negotiations to make or renew an agreement mentioned in section 130a and negotiations to make or renew an agreement mentioned in subsection (1) or (2) may proceed simultaneously and the *School Boards and Teachers Collective Negotiations Act* applies separately in respect of each such agreement and the negotiations and proceedings in respect of each such agreement.

Application  
of  
R.S.O. 1980,  
c. 464

**130h.**—(1) Except as modified by this Part, the *School Boards and Teachers Collective Negotiations Act* applies to negotiations, proceedings and agreements between the boards and the branch affiliates that represent the teachers employed by the boards.

Application  
of ss. 130a to  
130i

(2) Sections 130a to 130i do not apply in respect of an agreement or negotiations to make or renew an agreement that is to come into force before the 1st day of September, 1983.

Term of  
agreement

(3) An agreement that is to come into force before the 1st day of September, 1983 shall be for a term that ends on the 31st day of August, 1983.

Application  
of Part

(4) No agreement between a board and a branch affiliate that comes into force on or after the 1st day of September, 1983 is valid unless the agreement is made or renewed in accordance with this Part.

Application  
of 1982, c. 55

(5) Subsections (1) to (4) are subject to the *Inflation Restraint Act, 1982*.

Board not to  
implement  
variant term  
or condition  
of  
employment

**130i.**—(1) No board shall implement a term or condition of employment that is at variance from or inconsistent with an agreement mentioned in section 130a.

Direction by  
O.L.R.B.

(2) Where, on the application of a board, the Ontario Labour Relations Board is satisfied that a board is implementing a term or condition of employment that is within the scope of and that is at variance from or inconsistent with an agreement mentioned in section 130a, the Ontario Labour Relations Board may so declare and may direct what action boards, branch affiliates, and their employees and agents shall do or refrain from doing with respect to the term or condition of employment.

(3) The Ontario Labour Relations Board shall file in the office of the Registrar of the Supreme Court a copy of a direction made under subsection (1), exclusive of the reasons therefor, and the direction shall be entered and is enforceable in the same way as a judgment or order of the Supreme Court.

Enforcement

(4) The *Labour Relations Act* applies with necessary modifications in respect of proceedings before the Ontario Labour Relations Board under this section.

Application of  
R.S.O. 1980,  
c. 228

**8. The said Act is further amended by adding thereto the following section:**

s. 130j,  
enacted

**130j.**—(1) In this section,

Interpre-  
tation

(a) “additional”, in relation to teachers, means in addition to the teachers that a board is entitled to employ under an agreement under section 130a;

(b) “school year” has the same meaning as in the *Education Act*;

R.S.O. 1980,  
c. 129

(c) “total rateable property” means “total rateable property” as defined in subclause 127 (7) (c) (i).

(2) A board of education may employ in a year more elementary school teachers or secondary school teachers or both than the board of education is entitled to employ under an agreement under section 130a if the expenditure attributable to the employment of the additional teachers,

Employment  
of additional  
teachers

(a) is not included in the portion of the estimates of the board of education approved by the School Board; and

(b) does not exceed, in the case of elementary school teachers, a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983 or, in the case of secondary school teachers, a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983.

(3) Where in a year the School Board has increased the apportionment of an area municipality under subsection 127 (5) for public elementary or secondary school purposes or both, the maximum amount of expenditure attributable to the

Limitation

employment of the additional teachers limited by clause (2) (b) shall be reduced,

- (a) in the case of the employment of elementary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for public elementary school purposes; and
- (b) in the case of the employment of secondary school teachers, by the amount if any by which the apportionment was increased under subsection 127 (5) for secondary school purposes.

Termination  
of  
employment,  
additional  
elementary  
school  
teachers

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one and one-half mills in the dollar upon the total rateable property for public elementary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional elementary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional elementary school teachers in the year in which the apportionment is increased.

Termination  
of  
employment,  
secondary  
school  
teachers

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds a sum calculated at one mill in the dollar upon the total rateable property for secondary school purposes according to the assessment roll on which taxes were levied in 1983, the board of education,

- (a) shall not continue the employment of the additional secondary school teachers beyond the end of the school year that ends in the year in which the apportionment is increased; and
- (b) shall not employ more additional secondary school teachers in the year in which the apportionment is increased.

Determi-  
nation as to  
number of  
teachers

(6) For the purposes of subsections (1) to (5) in respect of the period from and including the 1st day of January, 1983 to the day that an agreement under section 130a comes into force, the School Board may determine, in such manner as the School Board considers proper, the number of teachers that a board is entitled to employ under an agreement under section 130a.



**9.—(1) Subsection 133 (1) of the said Act is amended by adding thereto the following clause:** s. 133 (1),  
amended

- (e) shall set forth separately the estimated expenditure in respect of the employment of teachers under section 130j in addition to the number of teachers that the board is entitled to employ under an agreement under section 130a that provides the method by which the number of teachers to be employed by the board is determined.

**(2) Clauses 133 (4) (a) and (b) of the said Act are repealed and the following substituted therefor:** s. 133 (4) (a,  
b),  
re-enacted

- (a) the aggregate estimates of all sums required for public elementary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for public elementary school purposes under subsection 127 (6); and
- (b) the aggregate estimates of all sums required for secondary school purposes and the aggregate of the revenues for such purposes to be derived from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum calculated at one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes less the amount of the increase, if any, in the amount of the apportionment to the area municipality for secondary school purposes under subsection 127 (6).

**10. Subsections 219 (3) and (4) of the said Act are repealed and the following substituted therefor:** s. 219 (3, 4),  
re-enacted

- (3) The amount levied under subsection (1) for public school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127. Elementary  
school  
purposes

Secondary  
school  
purposes

(4) The amount levied under subsection (1) for secondary school purposes shall be apportioned among the area municipalities in the amounts determined by the School Board under section 127.

Application  
of certain  
sections

**11.—(1)** The following apply only in respect of estimates and apportionments in 1983 and subsequent years:

1. Subsections 127 (3) to (7) of the said Act, as enacted by section 6.
2. Clause 133 (1) (e) of the said Act, as enacted by section 9.
3. Clauses 133 (4) (a) and (b) of the said Act, as re-enacted by section 9.
4. Subsections 219 (3) and (4) of the said Act, as re-enacted by section 10.

Idem

(2) Sections 127, 133 and 219 of the said Act, as they existed before the coming into force of this Act, continue to apply in respect of estimates and apportionments in 1982.

Commence-  
ment

**12.—(1)** This Act, except section 8, comes into force on the day it receives Royal Assent.

Idem

(2) Section 8 shall be deemed to have come into force on the 1st day of January, 1983.

Short title

**13.** The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1983*.

## BILL 128

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LIBRARY

2

## An Act respecting Gas Credit Card Payments to Dealers

MR. SWART





#### EXPLANATORY NOTE

Producers, importers, or refiners of petroleum products or other persons who sell petroleum products at wholesale and issue credit cards to the public will be prevented by this Bill from making a charge or levying a discount against dealers because payment or part payment is made by credit card scrip.

BILL 128

1982

## An Act respecting Gas Credit Card Payments to Dealers

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "dealer" means a person who sells petroleum products at retail;
- (b) "distributor" means a producer, importer or refiner of petroleum products, or other person who sells petroleum products at wholesale under his own brand name or names.

**2.** Where a purchase from a dealer is made by means of a credit card that is issued by a distributor, the distributor shall not make a charge or levy a discount in respect of the transaction.

No discount  
respecting  
credit card  
purchases

**3.** Where a distributor contravenes section 2, the dealer may set the amount of the charge or discount off against any moneys that he owes the distributor.

Right of  
set-off

**4.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**5.** The short title of this Act is the *Gas Credit Card Payments Act, 1982*.

Short title

# BILL 128

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An Act respecting Gas Credit  
Card Payments to Dealers

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*1st Reading*

May 31st, 1982

*2nd Reading*

*3rd Reading*

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MR. SWART

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*(Private Member's Bill)*

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BILL 129

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to require that Consumer Contracts be Readable  
and Understandable

MR. MANCINI



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill requires that consumer contracts be readable and understandable by the ordinary consumer. A consumer contract that contravenes the detailed requirements set out in subsection 2 (1) may be rescinded by the consumer, who is also entitled to recover any damages suffered as a result of the contravention and may be entitled to punitive damages.

BILL 129

1982

## An Act to require that Consumer Contracts be Readable and Understandable

**H**ER MAJESTY, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario,  
enacts as follows:

**1.** In this Act,

Interpre-  
tation

(a) “consumer” means an individual but does not include an individual, partnership or association of individuals acting in the course of carrying on business;

(b) “consumer contract” means a contract between a consumer and a person who is not a consumer for the purchase or rental by the consumer of,

(i) real property to be used for residential purposes,  
or

(ii) goods and services;

(c) “goods” means chattels personal or any right or interest therein other than things in action and money, including chattels that become fixtures but not including securities as defined in the *Securities Act*; and

R.S.O. 1980,  
c. 466

(d) “services” means services,

(i) provided in respect of goods or of real property,  
or

(ii) provided for social, recreational or self-improvement purposes, or

(iii) that are in their nature instructional or educational,

and includes the provision of insurance.

Requirements  
for consumer  
contract

**2.—**(1) Where a consumer contract is made in writing, it shall,

- (a) be written in clear and coherent language;
- (b) contain only words that are generally understood, used in their common and everyday sense;
- (c) not contain a word that is used in a legal or technical sense inconsistent with its generally understood meaning;
- (d) be arranged in a logical sequence;
- (e) be appropriately divided and captioned;
- (f) have a table of contents, if the consumer contract exceeds 3,000 words or three pages in length;
- (g) not contain unnecessarily long or complex sentences;
- (h) not contain unnecessary cross-references;
- (i) not contain a double negative or an exception to an exception; and
- (j) not be printed in less than ten point type.

Technical  
terms

(2) Despite clause (1) (b), a consumer contract may contain a technical word that is not generally understood where the technical word is required for the precise specification of a product or service.

Exceptions

(3) Subsection (1) does not apply to a consumer contract,

- (a) that is entirely drafted as a result of detailed negotiations between the parties; or
- (b) where the consumer has been represented in negotiations by a solicitor who signs the consumer contract as the consumer's solicitor.

Statutory  
language

(4) Clauses (1) (b) and (c) do not apply to a word that is defined or whose use is prescribed under a statute or regulation.

Rescission

**3.—**(1) A consumer contract that contravenes subsection 2 (1) may be rescinded by the consumer and the consumer is entitled to recover any damages suffered as a result of the contravention.

Where  
rescission  
not possible

(2) Where rescission under subsection (1) is not possible because restitution is no longer possible, or because rescission



would deprive a third party of a right in the subject-matter of the agreement that the third party has acquired in good faith and for value, the consumer is entitled to recover any damages suffered as a result of the contravention.

(3) Where a consumer is entitled to a remedy conferred by subsection (1) or (2), the court may also award the consumer exemplary or punitive damages. Exemplary damages

(4) A remedy conferred by subsection (1), (2) or (3) may be claimed by the giving of notice of the claim by the consumer in writing to each other party to the consumer contract within six months after the consumer contract is entered into. Time for rescission

(5) A notice under subsection (4) may be delivered personally or sent by registered mail addressed to the person to whom delivery is required to be made, and delivery by registered mail shall be deemed to have been made at the time of mailing. Delivery of notice

4. This Act applies despite any agreement or waiver to the contrary. No contracting out

5. This Act binds the Crown. Crown bound

6. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

7. The short title of this Act is the *Plain Language Act, 1982*. Short title





An Act to require that Consumer Contracts  
be Readable and Understandable

*1st Reading*

June 1st, 1982

*2nd Reading*

*3rd Reading*

MR. MANCINI

*(Private Member's Bill)*

**BILL 130**

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to amend the Motor Vehicle Dealers Act**

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The new provision authorizes the Lieutenant Governor in Council to make regulations establishing a compensation fund.



BILL 130

1982

## An Act to amend the Motor Vehicle Dealers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Motor Vehicle Dealers Act*, being chapter 299 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause: s. 1,  
amended

(ca) "Fund" means the Motor Vehicle Dealers Compensation Fund established under clause 24 (o).

2. Section 24 of the said Act is amended by adding thereto the following clauses: s. 24,  
amended

(o) providing for the establishment, maintenance and administration of the Motor Vehicle Dealers Compensation Fund including prescribing provisions relating to investing and paying out of money from the Fund;

(p) providing for the payment of levies into the Fund by participants and prescribing the amounts thereof;

(q) providing for payment out of the Fund of claims and procedures to be followed in respect thereto;

(r) requiring participation in the Fund by motor vehicle dealers.

3. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

4. The short title of this Act is the *Motor Vehicle Dealers Amendment Act, 1982*. Short title



An Act to amend the  
Motor Vehicle Dealers Act

*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

*(Government Bill)*

3 BILL 131

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Registry Act

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

Section 38 of the Act deals with the registration, with a certified English translation, of instruments or affidavits of execution in languages other than English. The provision as recast broadens the application of the section to include documents as well as related attachments.

The new provisions permit the registration of instruments and deposit of documents in a prescribed form and provide for a French-English lexicon to be prescribed. The prescribed forms need not be in English.



## An Act to amend the Registry Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 38 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 38,  
re-enacted

38. Where an instrument, document or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, document or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. Registrations  
in languages  
other than  
English

38a.—(1) Notwithstanding section 38, where an instrument, document or related attachment is in a prescribed form, the instrument may be registered or the document deposited if, Registration  
of instruments  
and documents  
in French  
language

(a) the instrument or document affects the title to land in a registry division or part thereof that is designated by regulation; and

(b) the instrument or document is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the forms of instruments, documents and related attachments for the purposes of this section;

(b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, documents and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

(c) designating registry divisions or parts thereof for the purpose of this section;

(d) prescribing terms and conditions for the registration of instruments or deposit of documents under subsection (1);

(e) designating any Act for the purpose of subsection (4).

Interpre-  
tation

(3) In sections 38 and 38a, "document" has the same meaning as it has in Part II.

Idem

(4) In this section, "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Registry Amendment Act, 1982*.









Bill 191  
An Act to amend the Registry Act

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*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

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THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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# BILL 131

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act to amend the Registry Act

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations





## An Act to amend the Registry Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 38 of the *Registry Act*, being chapter 445 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: s. 38,  
re-enacted

38. Where an instrument, document or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, document or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. Registrations  
in languages  
other than  
English

38a.—(1) Notwithstanding section 38, where an instrument, document or related attachment is in a prescribed form, the instrument may be registered or the document deposited if, Registration  
of instruments  
and documents  
in French  
language

- (a) the instrument or document affects the title to land in a registry division or part thereof that is designated by regulation; and
  - (b) the instrument or document is otherwise acceptable for registration or deposit.
- (2) The Lieutenant Governor in Council may make regulations, Regulations
- (a) prescribing the forms of instruments, documents and related attachments for the purposes of this section;
  - (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, documents and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

(c) designating registry divisions or parts thereof for the purpose of this section;

(d) prescribing terms and conditions for the registration of instruments or deposit of documents under subsection (1);

(e) designating any Act for the purpose of subsection (4).

Interpre-  
tation

(3) In sections 38 and 38a, "document" has the same meaning as it has in Part II.

Idem

(4) In this section, "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Registry Amendment Act, 1982*.









An Act to amend the Registry Act

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*1st Reading*

June 3rd, 1982

*2nd Reading*

November 2nd, 1982

*3rd Reading*

November 16th, 1982

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THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

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**BILL 132**

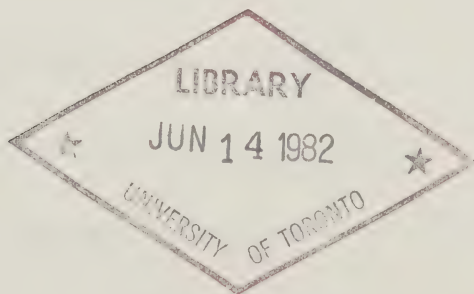
Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to amend the Land Titles Act**

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The new provisions permit the registration, with a certified English translation, of instruments and applications in a language other than English. They also permit registration of instruments and applications in a prescribed form and provide for a French-English lexicon to be prescribed. The prescribed forms need not be in English.

## An Act to amend the Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections: ss. 85a, 85b,  
enacted

85a. Where an instrument, application or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, application or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation. Registering  
instruments  
in foreign  
languages

85b.—(1) Notwithstanding section 85a, where an instrument, application or related attachment is in a prescribed form, the instrument or application may be registered or deposited, if, Registration  
of instruments  
in a prescribed  
form

(a) the instrument or application affects land in a land titles division or part thereof that is designated by regulation; and

(b) the instrument or application is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations, Regulations

(a) prescribing the forms of instruments, applications and related attachments for the purpose of this section;

(b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, applications and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;

- (c) designating land titles divisions or parts thereof for the purpose of this section;
- (d) prescribing terms and conditions for the registration and deposit of instruments and applications under subsection (1);
- (e) designating any Act for the purpose of clause (3) (b).

Interpre-  
tation

(3) In this section,

- (a) “instrument” includes any plan submitted for registration or deposit under this Act;
- (b) “prescribed form” means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Land Titles Amendment Act, 1982*.









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An Act to amend the Land Titles Act

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*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

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THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

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*(Government Bill)*

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# BILL 132

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE COUNCIL

## An Act to amend the Land Titles Act

THE HON. R. G. ELGIE  
Minister of Consumer and Commercial Relations





## An Act to amend the Land Titles Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Land Titles Act*, being chapter 230 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following sections:

85a. Where an instrument, application or related attachment is written wholly or in part in a language other than English there shall be produced with the instrument, application or related attachment a translation into English, together with an affidavit by the translator stating that he understands both languages and has carefully compared the translation with the original and that the translation is in all respects a true and correct translation.

Registrations  
in languages  
other than  
English

85b.—(1) Notwithstanding section 85a, where an instrument, application or related attachment is in a prescribed form, the instrument or application may be registered or deposited, if,

Registration  
of instruments  
and applications  
in French  
language

- (a) the instrument or application affects land in a land titles division or part thereof that is designated by regulation; and
- (b) the instrument or application is otherwise acceptable for registration or deposit.

(2) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) prescribing the forms of instruments, applications and related attachments for the purpose of this section;
- (b) prescribing a lexicon of French-English terms to be used in connection with the prescribed forms of instruments, applications and related attachments and deeming the corresponding forms of expression in the lexicon to have the same effect in law;



- (c) designating land titles divisions or parts thereof for the purpose of this section;
- (d) prescribing terms and conditions for the registration and deposit of instruments and applications under subsection (1);
- (e) designating any Act for the purpose of clause (3) (b).

Interpre-  
tation

(3) In this section,

- (a) "instrument" includes any plan submitted for registration or deposit under this Act;
- (b) "prescribed form" means a form prescribed by a regulation made under this section or under any Act designated by a regulation made under clause (2) (e).

Commence-  
ment

**2.** This Act comes into force on the day it receives Royal Assent.

Short title

**3.** The short title of this Act is the *Land Titles Amendment Act, 1982*.







An Act to amend the Land Titles Act

*1st Reading*

June 3rd, 1982

*2nd Reading*

November 2nd, 1982

*3rd Reading*

November 16th, 1982

THE HON. R. G. ELGIE  
Minister of Consumer and  
Commercial Relations

**BILL 133**

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to authorize Municipalities to obtain the Opinions of  
Electors with respect to Nuclear Disarmament**

MR. EPP



TORONTO

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EXPLANATORY NOTE

The Bill would authorize municipalities to include a question concerning nuclear disarmament on election ballots.





BILL 133

1982

**An Act to authorize Municipalities to obtain  
the Opinions of Electors with respect to  
Nuclear Disarmament**

**H**ER MAJESTY, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario,  
enacts as follows:

**1.** Despite paragraph 25 of section 208 of the *Municipal Act*, a municipality may submit to the vote of the electors a question with respect to nuclear disarmament.

Question re  
nuclear  
disarmament  
authorized  
R.S.O. 1980,  
c. 302

**2.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**3.** The short title of this Act is the *Nuclear Disarmament Referendum Act, 1982*.

Short title

An Act to authorize Municipalities to  
obtain the Opinions of Electors with  
respect to Nuclear Disarmament

*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

MR. EPP

*(Private Member's Bill)*

BILL 134

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

An Act to acquire the Assets of Inco Limited

MR. MARTEL



TORONTO

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#### EXPLANATORY NOTE

The purpose of the Bill is to vest the title and control of the assets situate in Ontario of Inco Limited in a Crown corporation, The Ontario Nickel Corporation. If compensation cannot be agreed upon, provision is made for arbitration. The objects of The Ontario Nickel Corporation include the task of operating and maintaining the assets of Inco Limited so as to provide employment and other economic benefits to the Province of Ontario.

## BILL 134

1982

## An Act to acquire the Assets of Inco Limited

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act, "Corporation" means The Ontario Nickel Corporation. Interpretation

**2.—(1)** There is hereby established, on behalf of Her Majesty in right of Ontario, a corporation without share capital under the name of "The Ontario Nickel Corporation". The Ontario Nickel Corporation established

**(2)** There shall be a Board of Directors of the Corporation consisting of such members as may be appointed by the Lieutenant Governor in Council. Board of Directors

**(3)** The Lieutenant Governor in Council shall designate one of the directors as chairman of the Board. Chairman

**(4)** The Corporation shall have a seal which shall be adopted by resolution or by-law. Seal

**3.—(1)** The affairs of the Corporation are under the management and control of the Board of Directors. Management

**(2)** The chairman shall preside at all meetings of the Board and, in his absence, one of the directors present thereat who is chosen so to act by the directors present shall preside and has and may exercise the powers of the chairman. Chairman to preside

**(3)** A majority of the directors constitutes a quorum for the transaction of business at meetings of the Board. Quorum

**(4)** The Board may make by-laws regulating its proceedings and generally for the conduct and management of the affairs of the Corporation. By-laws

Powers  
of  
Board  
R.S.O. 1980,  
c. 95

**4.** The Board of Directors has such powers as are necessary for the purpose of carrying out its objects including the powers set out in sections 274 and 275 of the *Corporations Act* and section 23 of that Act, except clauses (1) (*m*), (*p*), (*q*), (*r*), (*s*), (*t*), (*u*) and (*v*), but otherwise the *Corporations Act* does not apply to the Corporation.

Objects

**5.** The objects of the Corporation are to,

- (a) take possession of the property, both real and personal, and the works and undertakings of Inco Limited and its subsidiaries situated in the Province of Ontario; and
- (b) create, develop and increase income, employment, and other economic benefits to the Province by operating and maintaining, or by encouraging and assisting in the establishment, expansion and continued operation and maintenance of the property, works and undertakings acquired and possessed under this Act,

Head office

**6.** The head office of the Corporation shall be in The Regional Municipality of Sudbury.

Assets of  
Inco vest  
in the  
Corporation

**7.** All assets, including all real and personal property, works and undertakings, of Inco Limited and its subsidiaries situated in Ontario are hereby vested in The Ontario Nickel Corporation and the Corporation is hereby entitled to the possession, management and control of the said assets.

Notice of  
arbitration

**8.—**(1) If agreement for compensation for the assets of Inco Limited vested in the Corporation by section 7 is not reached within thirty days from the date this Act comes into force, either party may serve notice of arbitration upon the other and upon the Land Compensation Board, as constituted under the *Expropriations Act*, stating that it requires that the compensation payable be determined by arbitration.

R.S.O. 1980,  
c. 148

Idem

(2) The notice of arbitration referred to in subsection (1) shall be deemed to be a notice under clause 26 (*b*) of the *Expropriations Act* and, upon service of the notice, the practice and procedure under the *Expropriations Act* shall apply to the arbitration under this Act.

Application of  
R.S.O. 1980,  
c. 148

**9.—**(1) Sections 29, 30, 32, 33, 35 and 36 of the *Expropriations Act* apply to the taking of the assets referred to in section 7 in the same manner as if they were land.

(2) Compensation for the assets referred to in section 7 <sup>Idem</sup> is to be determined in accordance with sections 13, 14, 16, 17, subsection 19 (2) and section 20 of the *Expropriations Act* in the same manner as if they were land. R.S.O. 1980,  
c. 148

(3) For the purposes of an arbitration under this Act, <sup>Interpre-</sup> a reference to "expropriating authority" and to "statutory <sup>tation</sup> authority" in the *Expropriations Act* is a reference to the Corporation.

**10.** The compensation payable as a result of this Act <sup>Compensation</sup> stands in place of the assets of Inco Limited vested in the Corporation under section 7 and any claim to or encumbrance on the assets is deemed to be a claim to or an encumbrance on the compensation payable and not a claim or encumbrance on the assets.

**11.** The *Bulk Sales Act* does not apply to the transfer of <sup>R.S.O. 1980,</sup> assets provided for in this Act. c. 52  
does not apply

**12.** The Corporation shall, after the close of each fiscal <sup>Annual</sup> year, deliver to the Minister of Natural Resources an annual <sup>report</sup> report upon the affairs of the Corporation, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

**13.** This Act comes into force on the day it receives Royal <sup>Commence-</sup> Assent. ment

**14.** The short title of this Act is the *Inco Limited Acquisition* <sup>Short title</sup> Act, 1982.







An Act to acquire the  
Assets of Inco Limited

---

*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

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MR. MARTEL

---

*(Private Member's Bill)*

**BILL 135**

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

**An Act to amend the Unified Family Court Act**

THE HON. R. MCMURTRY  
Attorney General



TORONTO

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## EXPLANATORY NOTES

SECTION 1. The provision amended adopts the Schedule setting out the matters in the jurisdiction of the Court. In 1978 general jurisdiction in actions for alimony was deleted because the action was abolished. The amendment recognizes that all the entries in the Schedule are statutory.

SECTION 2. The provision repealed reads as follows:

(2) *Subsection (1) is repealed on a day to be named by proclamation of the Lieutenant Governor.*

Subsection (1) referred to confirms the Court's jurisdiction to rehear applications even though the order was made by the county or Supreme Court before the establishment of the Unified Family Court. The repeal was provided for on the assumption that these cases would phase out by the passage of time. It now appears that there will likely always be some application for subsection 6 (1).

SECTION 3.—Subsection 1. The amendment makes the provision of the *Judicature Act* that provides for post-judgment interest applicable to orders of the Court.

Subsection 2. The new subsection gives Unified Family Court garnishments the same status as provincial courts (family division) garnishments have under the *Family Law Reform Act*.

SECTION 4. The amendment provides for jurisdiction of the Court in respect of custody matters under the *Children's Law Reform Act* to be exercised where the child resides in the judicial district.

SECTION 5. The provision amended provides power to punish for contempt of orders of the Unified Family Court. The words added ensure that the provision includes orders of a court in Hamilton-Wentworth issued before the Unified Family Court was created.

SECTION 6. The Act was first enacted as a trial project and its repeal after three years was provided for. This time has been periodically extended. The amendment removes the provision for automatic repeal.

BILL 135

1982

## An Act to amend the Unified Family Court Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (3) of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by inserting after "thereof" in the second line "under the statutory provisions". s. 3 (3),  
amended
2. Subsection 6 (2) of the said Act is repealed. s. 6 (2),  
repealed
- 3.—(1) Subsection 8 (2) of the said Act is amended by inserting after "36" in the first line "37". s. 8 (2),  
amended
  - (2) Section 8 of the said Act is amended by adding thereto the following subsection: s. 8,  
amended
    - (3) Section 145 of the *Small Claims Courts Act* and subsection 4 (3) of the *Creditors' Relief Act* apply to a garnishment issued by the Court. Application of  
R.S.O. 1980,  
c. 476, s. 145  
and  
R.S.O. 1980,  
c. 103
- 4.—(1) Subsection 9 (1) of the said Act is amended by inserting at the commencement thereof "Subject to subsection (1a)". s. 9 (1),  
amended
  - (2) Section 9 of the said Act is amended by adding thereto the following subsection: s. 9,  
amended
    - (1a) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the judicial district may be commenced in the Court. Application  
under  
Part III,  
R.S.O. 1980,  
c. 68
5. Subsection 12 (1) of the said Act is amended by inserting after "orders" in the third line "or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Court". s. 12 (1),  
amended
6. Section 24 of the said Act is repealed. s. 24,  
repealed

Commence-  
ment

**7.**—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.

Idem

(2) Section 4 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**8.** The short title of this Act is the *Unified Family Court Amendment Act, 1982*.









BILL 135

An Act to amend the  
Unified Family Court Act

*1st Reading*

June 3rd, 1982

*2nd Reading*

*3rd Reading*

THE HON. R. MCMURTRY  
Attorney General

*(Government Bill)*

BILL 135

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to amend the Unified Family Court Act

THE HON. R. MCMURTRY  
Attorney General





BILL 135

1982

## An Act to amend the Unified Family Court Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 3 (3) of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is amended by inserting after "thereof" in the second line "under the statutory provisions". s. 3 (3),  
amended
2. Subsection 6 (2) of the said Act is repealed. s. 6 (2),  
repealed
- 3.—(1) Subsection 8 (2) of the said Act is amended by inserting after "36" in the first line "37". s. 8 (2),  
amended
  - (2) Section 8 of the said Act is amended by adding thereto the following subsection:
    - (3) Section 145 of the *Small Claims Courts Act* and subsection 4 (3) of the *Creditors' Relief Act* apply to a garnishment issued by the Court. Application of  
R.S.O. 1980,  
c. 476, s. 145  
and  
R.S.O. 1980,  
c. 103
- 4.—(1) Subsection 9 (1) of the said Act is amended by inserting at the commencement thereof "Subject to subsection (1a)". s. 9 (1),  
amended
  - (2) Section 9 of the said Act is amended by adding thereto the following subsection:
    - (1a) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in the judicial district may be commenced in the Court. Application  
under  
Part III,  
R.S.O. 1980,  
c. 68
5. Subsection 12 (1) of the said Act is amended by inserting after "orders" in the third line "or to an order of the Supreme Court or the County Court of the Judicial District of Hamilton-Wentworth made before the 1st day of July, 1977 in a matter that is in the jurisdiction of the Court". s. 12 (1),  
amended
6. Section 24 of the said Act is repealed. s. 24,  
repealed



Commence-  
ment

**7.**—(1) This Act, except section 4, comes into force on the day it receives Royal Assent.

Idem

(2) Section 4 comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**8.** The short title of this Act is the *Unified Family Court Amendment Act, 1982*.







An Act to amend the  
Unified Family Court Act

*1st Reading*

June 3rd, 1982

*2nd Reading*

June 11th, 1982

*3rd Reading*

June 25th, 1982

THE HON. R. MCMURTRY  
Attorney General

BILL 136

Private Member's Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act to amend the Workmen's Compensation Act

MR. LAUGHREN

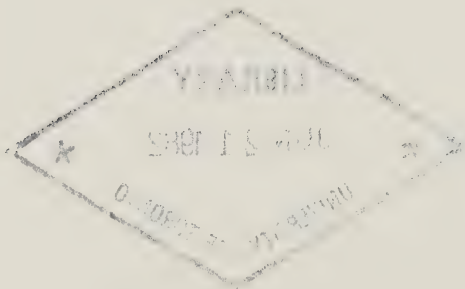


TORONTO

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EXPLANATORY NOTE

The Bill replaces references to "workmen" in the *Workmen's Compensation Act* (renamed the *Workers' Compensation Act*) with references to "workers".





BILL 136

1982

## An Act to amend the Workmen's Compensation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The title to the *Workmen's Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor: Title.  
re-enacted

### WORKERS' COMPENSATION ACT

2. Where in any general or special Act or in any regulation reference is made to, Amendments  
to references

- (a) the *Workmen's Compensation Act*;
- (b) the Workmen's Compensation Board; or
- (c) The Workmen's Compensation Board Superannuation Fund,

the reference shall be deemed to be made to,

- (d) the *Workers' Compensation Act*;
- (e) the Workers' Compensation Board; or
- (f) The Workers' Compensation Board Superannuation Fund,

as the case may be.

2. This Act comes into force on the day it receives Royal Assent. Commence-  
ment
3. The short title of this Act is the *Workmen's Compensation Amendment Act, 1982*. Short title

# BILL 136

An Act to amend the  
Workmen's Compensation Act

*1st Reading*

June 4th, 1982

*2nd Reading*

*3rd Reading*

MR. LAUGHREN

*(Private Member's Bill)*

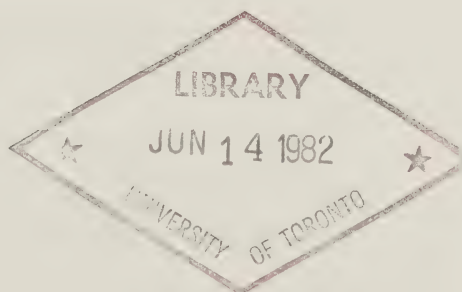
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BILL 137

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

An Act to regulate the Granting of Degrees

THE HON. B. STEPHENSON  
Minister of Education and Minister of  
Colleges and Universities



TORONTO

PRINTED BY ALAN GORDON, QUEEN'S PRINTER FOR ONTARIO

#### EXPLANATORY NOTE

The Bill provides for the regulation of degree granting institutions from other jurisdictions that wish to operate in Ontario. It also requires that future Ontario universities and degree granting institutions only be incorporated by a special Act of the Assembly and controls the use of the word "university" or any derivation or abbreviation thereof.

## An Act to regulate the Granting of Degrees

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Interpre-  
tation

- (a) "Minister" means the Minister of Colleges and Universities;
- (b) "person" includes an association of persons, a partnership or a corporation;
- (c) "regulations" means the regulations made under this Act.

**2.** No person shall directly or indirectly,

Authority  
to grant  
degrees,  
etc.

- (a) grant degrees;
- (b) provide a program of post-secondary study leading to a degree to be conferred by a person in or outside Ontario;
- (c) advertise a program of post-secondary study offered in Ontario leading to a degree to be conferred by a person in or outside Ontario; or
- (d) sell, offer for sale, or provide by agreement for a fee, reward or other remuneration, a diploma, certificate, document or other material that is, or indicates or implies the granting or conferring of, a degree,

unless the person,

- (e) is by a special Act of the Assembly granted the authority to grant degrees;
- (f) on the day this Act comes into force, is a person who has by a special Act of the Assembly been granted the

authority to grant degrees or whose authority to grant degrees has by a special Act of the Assembly been confirmed;

- (g) is a degree-granting institution established in Canada and listed in the Schedule; or
- (h) is a degree-granting institution established outside Canada and has the written consent of the Minister.

Authority  
to establish  
a university,  
etc.

**3. No person shall directly or indirectly,**

- (a) operate or maintain a university;
- (b) use or be known by a name of a university or any derivation or abbreviation thereof;
- (c) hold himself out to be a university;
- (d) make use of, in any advertising relating to an educational institution in Ontario, the word university or any derivation or abbreviation thereof,

unless the person,

- (e) is by a special Act of the Assembly incorporated as a university;
- (f) on the day this Act comes into force, is a person who has by a special Act of the Assembly been incorporated as a university or has by a special Act of the Assembly been confirmed as a university;
- (g) is a university established in Canada and listed in the Schedule; or
- (h) is a university established outside Canada and has the written consent of the Minister.

Amendments  
to  
Schedule

**4. The Lieutenant Governor in Council may, by order, amend the Schedule by adding thereto a degree-granting institution established in Canada or university established in Canada.**

Consent  
of  
Minister

**5.—(1) The Minister may give a written consent to,**

- (a) a degree-granting institution established outside Canada to enable it to do any one or more of the things mentioned in clauses 2 (a) to (d); or

- (b) a university established outside Canada to enable it to do any one or more of the things mentioned in clauses 3 (a) to (d).

(2) The Minister may attach such terms and conditions to a consent given under subsection (1) as the Minister considers proper to give effect to the intent of this Act. Terms and conditions of consent

**6.**—(1) Where the Minister has reasonable and probable grounds to believe that a person has contravened any of the provisions of this Act or the regulations, an inspector designated by the Minister in writing may at any reasonable time enter upon the business premises of such person, to make an inspection for the purpose of determining whether or not the person is in contravention of this Act or the regulations. Inspection

(2) Upon an inspection under subsection (1), the inspector, Powers on inspection

- (a) is entitled to free access to all books of account, cash, documents, bank accounts, vouchers, correspondence and records of the person being inspected that are relevant for the purposes of the inspection; and

- (b) may, upon giving a receipt therefor, remove any material referred to in clause (a) that relates to the purpose of the inspection for the purpose of making a copy thereof in which case the inspector shall make a copy with dispatch and return the material promptly thereafter to the person being inspected,

and no person shall obstruct the inspector in his inspection, withhold or destroy, conceal or refuse to furnish any information or thing required by the inspector for the purposes of the inspection.

(3) A copy made as provided in subsection (2) and purporting to be certified by an inspector is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original. Admissibility of copies

**7.**—(1) Every person who, Offence

- (a) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations; or

- (b) contravenes any provision of this Act or the regulations,

and every director or officer of a corporation who knowingly concurs in such furnishing of false information or contravention



by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or to imprisonment for a term of not more than one year, or to both.

Idem

(2) Where the person convicted of an offence under subsection (1) is a corporation, the maximum penalty that may be imposed upon the corporation is \$25,000 and not as provided therein.

Certificate  
of Minister  
as evidence

**8.** A written statement as to,

- (a) the consent or non-consent given to any person by the Minister; or
- (b) any other matter pertaining to such consent or non-consent,

purported to be certified by the Minister, is, without proof of the office or signature of the Minister, receivable in evidence as *prima facie* proof of the facts stated therein for all purposes in any action, proceeding or prosecution.

Regulations

**9.—(1)** The Lieutenant Governor in Council may make regulations,

- (a) governing applications for consent to engage or perform any act referred to in section 2 or 3;
- (b) providing for the expiration and renewal of consents;
- (c) prescribing information that must be contained in an application or form and requiring any such information to be verified by affidavit;
- (d) prescribing the terms and conditions upon which a consent of the Minister may be granted under this Act;
- (e) exempting any person or class of persons from any requirement of this Act or the regulations;
- (f) prescribing forms and providing for their use.

Adoption by  
reference

(2) A regulation may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any publication and may require compliance with any standards, requirements or procedures prescribed in a publication that is so adopted.

Commence-  
ment

**10.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.



**11.** The short title of this Act is the *Degree Granting Act*, Short title 1982.

## SCHEDULE

Acadia University  
The University of Alberta  
Athabasca University  
Atlantic Institute of Education  
Atlantic School of Theology  
Bishop's University  
Brandon University  
Briarcrest Bible Institute (Saskatchewan)  
The University of British Columbia  
The University of Calgary  
Seminary of Christ the King  
Concordia University  
Dalhousie University  
The King's College (Edmonton, Alberta)  
University of King's College (Halifax, N.S.)  
Université Laval  
The University of Lethbridge  
The University of Manitoba  
McGill University  
Memorial University of Newfoundland  
Université de Moncton  
Université de Montréal  
Mount Allison University  
Mount Saint Vincent University  
University of New Brunswick  
Nova Scotia College of Art and Design  
Nova Scotia Technical College  
Open Learning Institute (British Columbia)

University of Prince Edward Island

Université du Québec

Regent College (British Columbia)

The University of Regina

Université Sainte-Anne

St. Francis Xavier University

Saint Mary's University

St. Thomas University

University of Saskatchewan

Université de Sherbrooke

Simon Fraser University

Trinity Western College

University of Victoria (Victoria, B.C.)

The University of Winnipeg

Winnipeg Bible College and Theological Seminary







An Act to regulate  
the Granting of Degrees

---

*1st Reading*

June 4th, 1982

*2nd Reading*

*3rd Reading*

---

THE HON. B. STEPHENSON  
Minister of Education and Minister of  
Colleges and Universities

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*(Government Bill)*

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BILL 138

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

An Act respecting the Protection of the Health of the Public

THE HON. L. GROSSMAN  
Minister of Health



TORONTO

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## EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and sub-sections 150 (2), (3) and (4) (penalties).

The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

Medical officers of health are authorized to provide medical and public health nursing attendance and necessities to persons in need of assistance who appear not competent to care for themselves.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a

virulent disease, a provincial offences court may order the detention, examination and treatment of the person.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 33).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 36).

Confidentiality of information in respect of diseases is provided for in section 37.

Section 38, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Venereal Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 69.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 70).

Section 71 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 72 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 73).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 74.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 79).

Under section 80, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 81, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 80 and 81 are set out in section 82. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 83.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. *The Sanatoria for Consumptives Act.*
2. *The Venereal Diseases Prevention Act.*

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977.*
4. *The Borough of Etobicoke Act, 1980.*

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)

BILL 138

1982

## An Act respecting the Protection of the Health of the Public

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### INTERPRETATION

1.—(1) In this Act,

Interpre-  
tation

1. "Board" means the Health Protection Appeal Board under this Act;
2. "board of health" means a board of health established or continued under this Act and includes,
  - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
  - ii. a board of health under an Act establishing or continuing a regional municipality, and
  - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. "Chief Medical Officer of Health" means the Chief Medical Officer of Health under this Act;
4. "communicable disease" means a disease specified as a communicable disease by regulation made by the Minister;
5. "dwelling unit" means real property used or designed for use as a home or as a place in which one or more persons may sleep;



6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
  - i. a condition of a premises,
  - ii. a substance, thing, plant or animal other than man, or
  - iii. a solid, liquid, gas or combination of any of them,
 that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes,



including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,

- i. a person who is in physical possession of premises, or
- ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;

20. "physician" means a legally qualified medical practitioner;

21. "premises" means lands and structures, or either of them, and includes,

- i. water,
- ii. ships and vessels,
- iii. trailers and portable structures designed or used for residence, business or shelter,
- iv. trains, railway cars, vehicles and aircraft;

22. "public health inspector" means a public health inspector of a board of health;

23. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,

- i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or

ii. one that is used solely for commercial display and demonstration purposes;

24. "regulations" means regulations made under this Act;
25. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
26. "residential building" means a structure that contains one or more dwelling units;
27. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
28. "school" means a "private school" and a "school" as defined in the *Education Act*;
29. "school board" means a board as defined in the *Education Act*;
30. "sexually transmitted disease" means a disease caused by an infectious agent transmitted during sexual contact;
31. "virulent disease" means,
  - i. Diphtheria,
  - ii. Ebola virus disease,
  - iii. Gonorrhoea,
  - iv. Hemorrhagic fever,
  - v. Lassa fever,
  - vi. Marburg virus disease,
  - vii. Plague,
  - viii. Syphilis,
  - ix. Smallpox,
  - x. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

R.S.O. 1980,  
c. 129

Closing of  
premises

(2) An order under this Act that requires the closing of premises is an order,

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

**2.** The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Purpose

**3.** This Act binds the Crown.

Act binds  
Crown

## PART II

### HEALTH PROGRAMS AND SERVICES

**4.** Every board of health,

Duty of  
board of  
health

- (a) shall provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
- (b) shall perform such other functions as are required by or under this or any other Act.

**5.** Every board of health shall provide or ensure the provision of health programs and services in the following areas:

Mandatory  
health  
programs  
and  
services

- 1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
- 2. Control of communicable diseases, including provision of immunization services to children and adults.
- 3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
- 4. Family health, including,
  - i. provision of counselling services,
  - ii. establishment of family planning services,

- iii. programs to identify pregnant women who are in high-risk health categories,
- iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
- v. provision of preschool and school health services,
- vi. collection and analysis of epidemiological data.

R.S.O. 1980,  
c. 197

- 5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
- 6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
- 7. Public health education, including education in the prevention and control of life-style diseases.
- 8. Such additional health programs and services as are prescribed by the regulations.

School  
pupils

**6.—(1)** Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

Consent  
of school

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Application  
of subs. (1)

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Prohibition

(4) Where a board of health is required by this Act or the regulations to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Guidelines

**7.—(1)** The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry. Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*. Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails. Conflict

**8.** A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines. Extent of programs and services

**9.** A board of health may provide any other health program or service in any area in the health unit served by the board of health if, Optional health programs and services

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

### PART III

#### COMMUNITY HEALTH PROTECTION

**10.—(1)** Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit. Duty to inspect

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following: Idem

- 1. Food premises and any food and equipment thereon or therein.
- 2. Premises used or intended for use as a boarding house or lodging house.

**11.—(1)** A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard. Order by M.O.H. or public health inspector re health hazard

Condition  
precedent  
to order

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

Time

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Idem

(4) An order under this section may include, but is not limited to,

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;
- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person  
directed

(5) An order under this section may be directed to a person,



- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
- (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
- (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

(6) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

**12.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 11, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence

of a health hazard or of an order made under this Act or both;

- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

Recovery  
of expenses

**13.** The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction.

Food  
premises

**14.—(1)** Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of  
intention  
to commence  
operation

**(2)** Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons  
employed  
on or in  
food premises

**(3)** Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

**(4)** Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

Records

**(5)** Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of



food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

**15.** No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. Sale of diseased food

**16.—**(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Unpasteurized or unsterilized milk  
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk. Interpretation

**17.—**(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. Examination

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized. Return

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard. Destruction

Food

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities  
required in  
residential  
buildings

**18.** Every person who owns a residential building shall provide in the residential building,

(a) potable water; and

(b) sanitary facilities,

for the occupants of the residential building.

## PART IV

### COMMUNICABLE DISEASES

Interpretation

**19.—**(1) In this Part,

(a) “institution” means,

(i) “charitable institution” within the meaning of the *Charitable Institutions Act*,

R.S.O. 1980,  
c. 64

(ii) “facility” and “institution” within the meaning of the *Child Welfare Act*,

R.S.O. 1980,  
c. 66

(iii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

R.S.O. 1980,  
c. 67

(iv) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

R.S.O. 1980,  
c. 69

(v) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,  
c. 71

(vi) “day nursery” within the meaning of the *Day Nurseries Act*,

R.S.O. 1980,  
c. 111

(vii) “facility” within the meaning of the *Developmental Services Act*,

R.S.O. 1980,  
c. 118

(viii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*,

R.S.O. 1980,  
c. 201

- (ix) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980,  
c. 202
- (x) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980,  
c. 203
- (xi) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980,  
262
- (xii) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980,  
c. 263
- (xiii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980,  
c. 275
- (xiv) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980,  
c. 302
- (xv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980,  
c. 320
- (xvi) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980,  
c. 389
- (xvii) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980,  
c. 391
- (xviii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980,  
c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem  
R.S.O. 1980,  
c. 410

**20.**—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. Order by  
M.O.H. re  
communicable  
disease

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition  
precedent  
to order

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a com-

municable disease in the health unit served by the medical officer of health;

- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may  
be included  
in order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;
- (g) requiring the person to whom the order is directed to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

**21.** Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

**22.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or



- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of  
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Duty to  
report  
disease  
R.S.O. 1980,  
cc. 196, 127

**23.** A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of  
disease

**24.** A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty of  
hospital  
administrator  
to report  
re disease

**25.—(1)** The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of  
superintendent  
of institution  
to report  
re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When  
report  
to be  
given

**26.** The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of  
school  
principal  
to report  
disease

**27.**—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by  
operator

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Contents  
and time  
of report

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Interpretation  
R.S.O. 1980,  
c. 409

**28.** A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Duty to  
report death  
R.S.O. 1980,  
c. 524

**29.** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Reports by  
M.O.H. re  
diseases

**30.**—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Communica-  
tion  
between  
medical  
officers of  
health

Transmittal  
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communicable  
diseases of  
the eyes

**31.** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Person in  
need of  
assistance

**32.** Where a medical officer of health is of the opinion, upon reasonable and probable grounds, that a person residing in the health unit served by the medical officer of health shows a lack of competence to care for himself and that serious physical impairment of the person is imminent, the medical officer of health may provide or arrange for the attendance of physicians and public health nurses, medicine and other assistance and necessities for the person.

Physician  
to report  
refusal or  
neglect of  
treatment

**33.—(1)** Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to  
be made  
to M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

Transmittal  
to M.O.H.  
where  
person  
resides

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Additional  
information

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Order by  
provincial  
offences  
court

**34.—(1)** Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

When court  
may make  
order

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,



- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents  
of order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to provide detention, care and treatment for the person who is the subject of the order.

Capability  
of hospital

(5) An order under this section is authority for any person,

Delivery  
to hospital

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Police  
assistance

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Care and  
treatment

Physician responsible	(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.
Reports	(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.
Idem	(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.
Order to continue detention and treatment	<p>(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,</p> <ul style="list-style-type: none"> <li>(a) that the person continues to be infected with an agent of a virulent disease; and</li> <li>(b) that the discharge of the person from the hospital would present a significant risk to the health of the public,</li> </ul> <p>by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.</p>
Release and discharge from hospital	(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.
Certificate of M.O.H.	(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.
Hearing of application	(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on  
proceeding  
before Board

**35.**—(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 34 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Where person  
withdraws  
from care  
and treatment

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 34 applies with necessary modifications.

Failure to  
comply with  
isolation  
order

**36.**—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Examination  
of person  
under  
detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

Order  
by M.O.H.  
re person  
under  
detention

(3) In this section,

Interpretation

- (a) "correctional institution" has the same meaning as in the *Ministry of Correctional Services Act*;

R.S.O. 1980,  
c. 275

R.S.O. 1980,  
c. 302 (b) "lock-up" has the same meaning as in section 206 of the *Municipal Act*;

R.S.O. 1980,  
c. 398 (c) "observation and detention home" has the same meaning as in the *Provincial Courts Act*;

R.S.O. 1980,  
c. 508 (d) "training school" has the same meaning as in the *Training Schools Act*.

Confidentiality **37.**—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Exceptions (2) Subsection (1) does not apply,

(a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;

(b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;

(c) where the disclosure is made for the purposes of public health administration;

(d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or

R.S.O. 1980,  
cc. 196, 410,  
197  
R.S.C. 1970,  
cc. M-8, C-34

(e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child.

R.S.O. 1980,  
c. 66

Supply of  
drugs, etc.,  
by unqualified  
person  
prohibited **38.**—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re  
pharmacist  
R.S.O. 1980,  
c. 196 (2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

## PART V

RIGHTS OF ENTRY  
AND  
APPEALS FROM ORDERS

**39.**—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following: <sup>Interpretation, persons</sup>

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following: <sup>Interpretation, purposes</sup>

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2). <sup>Entry</sup>

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2). <sup>Examinations</sup>

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). <sup>Samples or extracts</sup>

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. <sup>Reasonable times</sup>

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. <sup>Private residence</sup>

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dis- <sup>Food premise</sup>



mantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry.

Compliance  
with  
requirement

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8).

Copies

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

Application  
for warrant

(11) If an occupier of premises,

(a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);

(b) instructs a person mentioned in subsection (1) to leave the premises;

(c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);

(d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 41.

Obstruction

**40.** No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a medical officer of health lawfully carrying out a power, duty or direction under this Act.

Warrant by  
justice of  
the peace

**41.—**(1) Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations, tests and inquiries, and

- (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

- (b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,

- (i) has been denied entry to the premises,

- (ii) has been instructed to leave the premises,

- (iii) has been obstructed, or

- (iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. *Execution of warrant*

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. *Expiry of warrant*

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. *Ex parte application*

**42.**—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within *Notice of right to hearing*

fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Effect of  
order

(2) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect when it is served on the person to whom it is directed, but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

Powers of  
Board

(3) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for  
hearing

(4) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension  
of time for  
hearing

(5) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

**43.**—(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination of  
documentary  
evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not to  
have taken  
part in  
investi-  
gation, etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative



except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court. Recording of evidence

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties. Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined. Release of documentary evidence

**44.**—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court. Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of. Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal. Record to be filed in court

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Minister entitled to be heard

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper. Powers of court on appeal

**45.**—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council. Health Protection Appeal Board

Chairman and vice-chairmen	(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.
Vacancy	(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.
Terms	(4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
Remuneration	(5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
Quorum	(6) Three members of the Board constitute a quorum.
Sittings	(7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
Practice and procedure	(8) The Board may determine its own practice and procedure in relation to a hearing.
Decision	(9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
Hearings to be public, exceptions	(10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

## PART VI

### HEALTH UNITS AND BOARDS OF HEALTH

Boards of health	<b>46.</b> There shall be a board of health for each health unit.
Composition of board of health	<b>47.—</b> (1) A board of health is composed of the members appointed to the board under this Act and the regulations.

(2) There shall be not fewer than three and not more than thirteen municipal members of each board of health. Municipal members.

(3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health. Appointments by Lieutenant Governor in Council

(4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate. Remuneration

(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health. Expenses

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate. Rate of remuneration

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council. Term of office

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*. Disqualification R.S.O. 1980, c. 302

(9) Subsections (1) to (8) do not apply to, Application of subss. (1-8)

(a) the board of health under the *County of Oxford Act*; R.S.O. 1980, c. 365

(b) a board of health under an Act establishing or continuing a regional municipality; or

(c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.

**48.—**(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which, Agreement with council of band

(a) the board agrees to provide health programs and services to the members of the band; and

(b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment  
of member  
by council  
of band

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint  
appointment

(3) The council of the band of each of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

(4) An appointment under this section may be for one, two or three years.

Interpretation  
R.S.C. 1970,  
c. I-6

(5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of  
office

**49.**—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disquali-  
fication

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be  
corporation

**50.**—(1) Every board of health is a corporation without share capital.

Application of  
R.S.O. 1980,  
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real  
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents  
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

**51.** The name of each board of health shall be the "Board of <sup>Name of</sup> Health for the <sup>board</sup> .....  
*(inserting the name of the health unit)*  
 Health Unit".

**52.** A majority of the members of a board of health constitutes a quorum of the board. <sup>Quorum</sup>

**53.** Sections 50 to 52 do not apply to a regional corporation <sup>Application of</sup> that, under the Act establishing or continuing the regional <sup>ss. 50-52</sup> municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

**54.** A board of health shall pass by-laws respecting, <sup>By-laws</sup>

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

**55.—**(1) A board of health shall hold its first meeting of each <sup>First meeting</sup> year not later than the 1st day of February.

(2) At the first meeting of a board of health in each year, the <sup>Chairman</sup> members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

**56.** A board of health shall keep or cause to be kept <sup>Minutes</sup> minutes of its proceedings and the text of the by-laws and resolutions passed by it.

**57.—**(1) A board of health shall keep or cause to be kept, <sup>Financial records</sup>

- (a) books, records and accounts of its financial affairs;
- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

(2) A board of health shall cause to be prepared statements of <sup>Annual financial statements</sup> its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.



Retention  
of records

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.

Duty of  
board of  
health

**58.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Medical  
officer of  
health

**59.** Every board of health,

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health.

Use of title

**60.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Eligibility for  
appointment

**61.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

(a) he is a physician;

(b) he possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment.

Retirement

**62.—(1)** Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Extension

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Dismissal

**63.—(1)** A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

(a) the decision is carried by the vote of two-thirds of the members of the board; and

(b) the Minister consents in writing to the dismissal.

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health, Notice and attendance

(a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;

(b) a written statement of the reason for the proposal to dismiss the medical officer of health; and

(c) an opportunity to attend and to make representations to the board at the meeting.

**64.**—(1) The medical officer of health of a board of health is the executive officer of the board. Executive officer

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board. Direction of staff

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board. Management and administration

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health. Area of authority

**65.**—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health. Duties of associate M.O.H.

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health. Where M.O.H. absent or unable to act

**66.**—(1) Where, Acting M.O.H.

(a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and

(b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.



Powers and  
duties

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Attendance  
at meetings  
of boards

**67.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Staff

**68.**—(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Qualifications

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Expenses

**69.**—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal  
authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

Reports

**70.** Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

Financial  
inspectors

**71.**—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires. Information

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector. Access to records

**72.—**(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health. Where Minister is of opinion that management or administration of affairs of board of health are inadequate

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health. Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health. Duty of board of health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be. Action on behalf of board of health, etc.

Action by  
board of  
health

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative or professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Right of  
access

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Duration of  
directions

(7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants

**73.** The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of  
health units

**74.—**(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and  
liabilities

(2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

Alteration  
of boundaries  
of health  
units

(3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Order by  
Minister

(4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

## PART VII

## ADMINISTRATION

**75.**—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario. Investigation re disease and mortality

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario. Direction to investigate

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act. Powers of investigator  
R.S.O. 1980, c. 411

**76.**—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper. Public health laboratory centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction. Direction by Minister

**77.**—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors. Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act. Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable. Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry. Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request. Certificate of appointment



Chief Medical  
Officer of  
Health

**78.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Qualifications

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Examinations  
of records by  
Chief Medical  
Officer of  
Health

**79.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

Copies

(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation

(3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board  
of health  
not providing  
health program  
or service

**80.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses

(2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where  
situation  
of risk  
to health

**81.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of  
Chief Medical  
Officer of  
Health

**82.**—(1) For the purposes of sections 80 and 81, the Chief Medical Officer of Health,

(a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and

(b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,

(i) that the person has power to do under this Act,  
or

- (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and

- (b) the person shall carry out the direction as soon as practicable.

**83.**—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

**84.**—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of  
possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and  
submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for  
possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
  - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
  - (ii) is not likely to comply with the Minister's order under subsection (1), or
  - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution  
of warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.



(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. *Ex parte application*

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located. *Termination of use of premises*

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation. *Compensation R.S.O. 1980, c. 148*

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. *Application of R.S.O. 1980, c. 148*

**85.** The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit, *Northern Ontario Public Health Service*

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

**86.—(1)** Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of, *Health services in isolated municipalities*

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals whose services may be employed by a board of health.

Idem

(2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of  
ss. 85, 86

**87.** Sections 85 and 86 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Agreement  
with  
organization

**88.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

(a) the health programs and services that a board of health is required to provide under this Act and the regulations; and

(b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.

Hearings

**89.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

Appointment  
of public  
health  
professionals

**90.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

Provincial  
analysts

**91.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

Protection  
from  
personal  
liability

**92.—(1)** No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

## PART VIII

### REGULATIONS

**93.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them. Regulations relating to Part II

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
  - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
  - (ii) requiring the installation and maintenance of safety equipment,
  - (iii) requiring the presence of lifeguards and other staff, and
  - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of persons who are employed on or in food premises and requiring compliance therewith;
- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughterhouses; prescribing and requiring compliance with standards and requirements in respect of the foregoing

and prohibiting the slaughter of animals in any place other than a slaughter-house;

- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

(4) The Lieutenant Governor in Council may make regulations relating to Part IV, Regulations relating to Part IV

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable



disease or who had a communicable disease at the time of death;

- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;
- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

Regulations  
relating to  
Part VI

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;

(c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;

(d) subject to Part VI, specifying for each board of health,

- (i) the number of municipal members of the board,
- (ii) by whom each of the municipal members of the board shall be appointed,
- (iii) the area or place that each municipal member of the board is to represent,
- (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

(v) the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365

(vi) a board of health under an Act establishing or continuing a regional municipality, or

(vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;

(e) assigning additional duties to inspectors or any class of them appointed by the Minister;

(f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody, keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,

- (i) the proceedings of boards of health,
- (ii) the text of by-laws and resolutions of boards of health,
- (iii) the financial and administrative affairs of boards of health,
- (iv) mandatory health programs and services,
- (v) other health programs and services,



(vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;

(g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;

(h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations  
by Minister

**94.** The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of  
regulations

**95.—(1)** A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption  
of codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the same type or with the same attributes, qualities or characteristics.

Form, etc.,  
of reports  
or notices

**96.** Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

## PART IX

### ENFORCEMENT

Offence,  
orders

**97.—(1)** Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,  
reports

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

(3) Any person who contravenes section 14, 15, 16, 18, 37 or 38, subsection 39 (9), section 40, subsection 71 (2) or section 102 is guilty of an offence. Offence, sections of Act

(4) Any person who contravenes a regulation is guilty of an offence. Offence, regulations

**98.**—(1) Every person who is guilty of an offence under section 97 is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors, officers, employees and agents

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

**99.**—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister. Proceedings to restrain contravention of order

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court. Proceedings to prohibit continuation or repetition of contravention

**100.**—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer Copy of order as evidence

of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate  
as evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of  
compliance  
with order

**101.** A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing  
false  
information

**102.** No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

**103.—(1)** Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

When service  
deemed made

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

## PART X

### TRANSITION AND REPEALS

Health  
units  
R.S.O. 1980,  
c. 409

**104.** Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

**105.** Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of health continued  
R.S.O. 1980, c. 409

**106.** The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office and shall be deemed to be the municipal members of the board referred to in Part VI until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board member continued in office

**107.** The medical officers of health of boards of health or local boards of health in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical officers of health continued in office

**108.**—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance

**109.**—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 50 (2), (3) and (4), is repealed.

Repeals

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

Idem

#### LABORATORY AND SPECIMEN COLLECTION CENTRE LICENSING ACT

(3) The following are repealed:

Idem

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.

4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-  
ment

**110.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**111.** The short title of this Act is the *Health Protection Act, 1982*.









An Act respecting the Protection  
of the Health of the Public

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*1st Reading*

June 8th, 1982

*2nd Reading*

*3rd Reading*

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THE HON. L. GROSSMAN  
Minister of Health

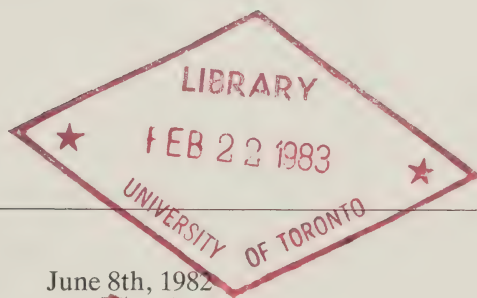
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*(Government Bill)*

# Bill 138

## **An Act respecting the Protection and Promotion of the Health of the Public**

The Hon. L. Grossman  
*Minister of Health*



*1st Reading*      June 8th, 1982  
*2nd Reading*     June 29th, 1982  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*



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## EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and sub-sections 150 (2), (3) and (4) (penalties).

The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

The Part also requires medical officers of health to keep themselves informed in respect of matters related to occupational and environmental health and to respond to complaints about health hazards related to occupational or environmental health. Municipalities and Government ministries are required to provide information related to occupational or environmental health requested by a medical officer of health if the information is available and not restricted by law.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action or may be added to the collector's roll and collected in the same manner as municipal real property taxes.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a virulent disease, a provincial offences court may order the detention, examination and treatment of the person. An order of a provincial offences court may be appealed to a county or district court and from there, with leave, to the Court of Appeal.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 34).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 37).

Confidentiality of information in respect of diseases is provided for in section 38.

Section 39, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Venereal Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records. Section 59 of the Bill relates specifically to the boards of health of the following Metropolitan Toronto municipalities: the Borough of Etobicoke, the City of North York, the Borough of Scarborough and the City of Toronto.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 71.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 72).

Section 73 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 74 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section

may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 75).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 76.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 81).

Under section 82, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 83, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 82 and 83 are set out in section 84. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 85.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. *The Sanatoria for Consumptives Act.*
2. *The Venereal Diseases Prevention Act.*

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977.*
4. *The Borough of Etobicoke Act, 1980.*

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)

Bill 138

1982

**An Act respecting the Protection  
and Promotion of the Health of the Public**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

**1.—(1)** In this Act,

Interpre-  
tation

1. “Board” means the Health Protection Appeal Board under this Act;
2. “board of health” means a board of health established or continued under this Act and includes,
  - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
  - ii. a board of health under an Act establishing or continuing a regional municipality, and
  - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. “Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act;
4. “communicable disease” means a disease specified as a communicable disease by regulation made by the Minister;
5. “dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. “food” means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. “food premise” means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. “guidelines” means guidelines published by the Minister under this Act;
9. “health hazard” means,
  - i. a condition of a premises,
  - ii. a substance, thing, plant or animal other than man, or
  - iii. a solid, liquid, gas or combination of any of them,that has or that is likely to have an adverse effect on the health of any person;
10. “health unit” means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. “mandatory”, in relation to a health program or service, means a health program or service mentioned in section 5;
12. “medical officer of health” means a medical officer of health of a board of health;
13. “milk” means milk from cows, goats or sheep;
14. “Minister” means Minister of Health;
15. “Ministry” means Ministry of Health;
16. “municipal member”, in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. “municipality” means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority



exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,
- i. a person who is in physical possession of premises,
  - ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
  - iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;
20. "physician" means a legally qualified medical practitioner;
21. "premises" means lands and structures, or either of them, and includes,
- i. water,
  - ii. ships and vessels,
  - iii. trailers and portable structures designed or used for residence, business or shelter,
  - iv. trains, railway cars, vehicles and aircraft;
22. "public health inspector" means a public health inspector of a board of health;
23. "public health nurse" means a public health nurse of a board of health;

24. “public pool” means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
- i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
  - ii. one that is used solely for commercial display and demonstration purposes;
25. “regulations” means regulations made under this Act;
26. “reportable disease” means a disease specified as a reportable disease by regulation made by the Minister;
27. “residential building” means a structure that contains one or more dwelling units;
28. “sanitary facilities” means a room or rooms containing one or more toilets and one or more washbasins;
29. “school” means a “private school” and a “school” as defined in the *Education Act*;
30. “school board” means a board as defined in the *Education Act*;
31. “sexually transmitted disease” means a disease caused by an infectious agent usually transmitted during sexual contact;
32. “virulent disease” means,
- i. Cholera,
  - ii. Diphtheria,
  - iii. Ebola virus disease,
  - iv. Gonorrhoea,
  - v. Hemorrhagic fever,
  - vi. Lassa fever,



- vii. Leprosy,
- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

**2.** The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. Purpose

**3.** This Act binds the Crown. Act binds Crown

## PART II

### HEALTH PROGRAMS AND SERVICES

- 4.** Every board of health, Duty of board of health
- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
  - (b) shall perform such other functions as are required by or under this or any other Act.

Mandatory  
health  
programs and  
services

**5.** Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
  - i. provision of counselling services,
  - ii. establishment of family planning services,
  - iii. programs to identify pregnant women who are in high-risk health categories,
  - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
  - v. provision of preschool and school health services,
  - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,  
c. 197

**6.**—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

School pupils

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Consent of school

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*.

Separate school rights preserved  
1867, c. 3;  
R.S.O. 1980,  
c. 129

**7.**—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry.

Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*.

Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails.

Conflict

**8.** A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines.

Extent of programs and services

**9.** A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

Optional health programs and services

- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

### PART III

#### COMMUNITY HEALTH PROTECTION

Duty to  
inspect

**10.**—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

- 1. Food premises and any food and equipment thereon or therein.
- 2. Premises used or intended for use as a boarding house or lodging house.

Complaint re  
health hazard  
related to  
occupational  
or environ-  
mental health

**11.**—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of  
M.O.H. re  
occupational  
and environ-  
mental health

**12.**—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of  
information  
to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any

matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

**13.—**(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

Order by  
M.O.H. or  
public health  
inspector re  
health hazard

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

Condition  
precedent to  
order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Time

(4) An order under this section may include, but is not limited to,

What may  
be included  
in order

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;



- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person  
directed

- (5) An order under this section may be directed to a person,
- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
  - (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
  - (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons for  
order

- (6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral order

- (7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description  
of person  
directed

- (8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions by  
M.O.H.

- 14.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When  
M.O.H. may  
give  
directions

- (2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a

health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard.

Contents of  
directions

(4) Directions under this section may include, but are not limited to,

Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

**15.—**(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction.

Recovery of  
expenses by  
action



Statement to  
municipal  
clerk

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and
- (c) the location of the premises.

Collection

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by  
occupier

(4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by  
owner

(5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food  
premises

**16.—**(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of  
intention to  
commence  
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons  
employed on  
or in food  
premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

(4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing,

processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

(5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

Records

**17.** No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause.

Sale of diseased food

**18.—**(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Unpasteurized or unsterilized milk  
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*.

Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk.

Interpretation

**19.—**(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal.

Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard.

Examination

## Return

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized.

## Destruction

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard.

## Food

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities  
required in  
residential  
buildings

**20.** Every person who owns a residential building shall provide,

- (a) potable water; and
- (b) sanitary facilities or a privy,

for the residents of the residential building.

## PART IV

## COMMUNICABLE DISEASES

Interpre-  
tation

**21.—**(1) In this Part,

- (a) “institution” means,

R.S.O. 1980,  
c. 64

- (i) “charitable institution” within the meaning of the *Charitable Institutions Act*,

R.S.O. 1980,  
c. 67

- (ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

R.S.O. 1980,  
c. 69

- (iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

R.S.O. 1980,  
c. 71

- (iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

- (v) “day nursery” within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (vi) “facility” within the meaning of the *Developmental Services Act*, R.S.O. 1980, c. 118
- (vii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*, R.S.O. 1980, c. 201
- (viii) “home for special care” within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) “home” within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) “psychiatric facility” within the meaning of the *Mental Health Act*, R.S.O. 1980, c. 262
- (xi) “approved home” and “institution” within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) “correctional institution” within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) “lock-up” within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) “nursing home” within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) “private hospital” within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) “sanitarium” within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) “training school” within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) “superintendent” means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, “administrator”, “hospital”, “out-patient” and “patient” have the same meanings as in the *Public Hospitals Act*. Idem R.S.O. 1980, c. 410



Order by  
M.O.H. re  
communi-  
cable disease

**22.**—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

Condition  
precedent to  
order

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the medical officer of health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may be  
included in  
order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to

deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

- (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

**23.** Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

Directions by  
M.O.H.

**24.**—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When  
M.O.H. may  
give  
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of  
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery of  
expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.



**25.** A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient in or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to report disease  
R.S.O. 1980,  
cc. 196, 127

**26.** A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

**27.—**(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

**28.** The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

**29.—**(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

Contents and  
time of  
report

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Interpre-  
tation  
R.S.O. 1980,  
c. 409

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Duty to  
report death  
R.S.O. 1980,  
c. 524

**30.** A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Reports by  
M.O.H. re  
diseases

**31.** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Communi-  
cation  
between  
medical  
officers of  
health

**32.—**(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Transmittal  
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communi-  
cable  
diseases of  
the eyes

**33.** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Physician to  
report refusal  
or neglect of  
treatment

**34.—**(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to be  
made to  
M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Transmittal  
to M.O.H.  
where person  
resides

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Additional  
information

**35.**—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

Order by  
provincial  
offences  
court

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

When court  
may make  
order

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents of  
order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to

Capability of  
hospital

provide detention, care and treatment for the person who is the subject of the order.

Delivery to  
hospital

(5) An order under this section is authority for any person,

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

Police  
assistance

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Care and  
treatment

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Physician  
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

Idem

(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.

Order to  
continue  
detention  
and  
treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,

- (a) that the person continues to be infected with an agent of a virulent disease; and



- (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Release and  
discharge  
from hospital

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.

Certificate of  
M.O.H.

(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

Hearing of  
application

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on  
proceeding  
before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpre-  
tation

## Appeal

R.S.O. 1980,  
c. 400

(17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

## Stay

(18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.

Appeal to  
Court of  
Appeal

(19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.

Grounds for  
leave

(20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.

Where  
person  
withdraws  
from care  
and  
treatment

**36.—**(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Failure to  
comply with  
isolation  
order

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.

Examination  
of person  
under  
detention

**37.—**(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Order by  
M.O.H. re  
person under  
detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such

action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

(3) In this section,

Interpre-  
tation

- (a) "correctional institution" has the same meaning as in the *Ministry of Correctional Services Act*; R.S.O. 1980, c. 275
- (b) "lock-up" has the same meaning as in section 206 of the *Municipal Act*; R.S.O. 1980, c. 302
- (c) "observation and detention home" has the same meaning as in the *Provincial Courts Act*; R.S.O. 1980, c. 398
- (d) "training school" has the same meaning as in the *Training Schools Act*. R.S.O. 1980, c. 508

**38.**—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Confiden-  
tiality

(2) Subsection (1) does not apply,

Exceptions

- (a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;
- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or R.S.O. 1980, cc. 196, 410, 197  
R.S.C. 1970, cc. M-8, C-34
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child. R.S.O. 1980, c. 66



Supply of  
drugs, etc.,  
by  
unqualified  
person  
prohibited

**39.**—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re  
pharmacist  
R.S.O. 1980,  
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

## PART V

### RIGHTS OF ENTRY AND APPEALS FROM ORDERS

Interpreta-  
tion, persons

**40.**—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following:

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

Interpre-  
tation,  
purposes

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following:

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

Entry

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2).

Samples or  
extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times.

Reasonable  
times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier.

Private  
residence

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry.

Food premise

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8).

Compliance  
with  
requirement

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

Copies

(11) If an occupier of premises,

Application  
for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

**41.—**(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a med-

Obstruction

ical officer of health lawfully carrying out a power, duty or direction under this Act.

Private  
residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Warrant by  
justice of the  
peace

**42.**—(1) Where a justice of the peace is satisfied on evidence upon oath,

(a) that there is reasonable and probable ground for believing that it is necessary,

(i) to enter and have access to, through and over any premises,

(ii) to make examinations, investigations, tests and inquiries, and

(iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

(b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,

(i) has been denied entry to the premises,

(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health

inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry of warrant

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

**43.**—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may also require such a hearing. Notice of right to hearing

(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order. Oral order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect, Effect of order

(a) when it is served on the person to whom it is directed; or

(b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), Powers of Board



the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for  
hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension of  
time for  
hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

**44.—**(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination  
of  
documentary  
evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not  
to have taken  
part in  
investigation,  
etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

**45.**—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Record to be filed in court

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Minister entitled to be heard

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

**46.**—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

Health Protection Appeal Board

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.

Vacancy

Terms	(4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
Remuneration	(5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
Quorum	(6) Three members of the Board constitute a quorum.
Sittings	(7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
Practice and procedure	(8) The Board may determine its own practice and procedure in relation to a hearing.
Decision	(9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
Hearings to be public, exceptions	(10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

## PART VI

### HEALTH UNITS AND BOARDS OF HEALTH

Boards of health	<b>47.</b> There shall be a board of health for each health unit.
Composition of board of health	<b>48.—(1)</b> A board of health is composed of the members appointed to the board under this Act and the regulations.
Municipal members	(2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
Appointments by Lieutenant Governor in Council	(3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
Remuneration	(4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.



(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health. Expenses

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate. Rate of remuneration

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council. Term of office

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*. Disqualifi-  
cation  
R.S.O. 1980,  
c. 302

(9) Subsections (1) to (8) do not apply to, Application  
of

- (a) the board of health under the *County of Oxford Act*; subss. (1-8)  
R.S.O. 1980,  
c. 365
- (b) a board of health under an Act establishing or continuing a regional municipality; or
- (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.

(10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards). Application  
of R.S.O.  
1980, c. 302

(11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality. Member of  
municipal  
council

**49.—**(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which, Agreement  
with council  
of band

- (a) the board agrees to provide health programs and services to the members of the band; and

- (b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment  
of member  
by council of  
band

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint  
appointment

(3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

(4) An appointment under this section may be for one, two or three years.

Interpre-  
tation  
R.S.C. 1970,  
c. I-6

(5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of  
office

**50.**—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disqualifi-  
cation

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be  
corporation

**51.**—(1) Every board of health is a corporation without share capital.

Application  
of  
R.S.O. 1980,  
cc. 95, 96

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real  
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents  
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

**52.** The name of each board of health shall be the “Board of Health for the .....  
Health Unit”.  
*(inserting the name of the health unit)*

Name of  
board

**53.** A majority of the members of a board of health constitutes a quorum of the board.

Quorum

**54.** Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

Application  
of ss. 51-53,  
55-58

**55.—**(1) A board of health shall pass by-laws respecting,

By-laws

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

(2) A board of health may pass by-laws respecting,

Idem

- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
- (b) any other matter necessary or advisable for the management of the affairs of the board of health.

**56.—**(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

First meeting

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

Chairman

**57.** A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it.

Minutes

**58.—**(1) A board of health shall keep or cause to be kept,

Financial  
records

- (a) books, records and accounts of its financial affairs;

- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

Annual  
financial  
statements

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

Retention of  
records

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.

Certain  
boards of  
health in  
Metropolitan  
Toronto

**59.—**(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) the council of the municipality shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

Municipalities  
specified

(2) The municipalities referred to in subsection (1) are the following:

1. The Borough of Etobicoke.
2. The City of North York.
3. The Borough of Scarborough.
4. The City of Toronto.



**60.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Duty of  
board of  
health

**61.** Every board of health,

Medical  
officer of  
health

- (a) shall appoint a full-time medical officer of health; and
- (b) may appoint one or more associate medical officers of health,

of the board of health.

**62.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Use of title

**63.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

Eligibility for  
appointment

- (a) he is a physician;
- (b) he possesses the qualifications and requirements prescribed by the regulations for the position; and
- (c) the Minister approves the proposed appointment.

**64.—(1)** Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Retirement

**(2)** A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Extension

**65.—(1)** A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

Dismissal

- (a) the decision is carried by the vote of two-thirds of the members of the board; and
- (b) the Minister consents in writing to the dismissal.

Notice and  
attendance

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health,

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

Executive  
officer

**66.**—(1) The medical officer of health of a board of health is the executive officer of the board.

Direction of  
staff

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board.

Management  
and adminis-  
tration

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board.

Area of  
authority

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health.

Duties of  
associate  
M.O.H

**67.**—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health.

Where  
M.O.H.  
absent or  
unable to act

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health.

**68.—(1) Where,**Acting  
M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Powers and  
duties

**69.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Attendance  
at meetings  
of boards

**70.—(1)** Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Staff

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Qualifi-  
cations

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

Public health  
nurseR.S.O. 1980,  
c. 196

- (a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and
- (b) meets such additional qualifications and requirements as are prescribed by the regulations.



## Expenses

**71.**—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

## Municipal authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

## Reports

**72.** Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

## Financial inspectors

**73.**—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

## Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

## Information

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires.

## Access to records

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector.

Where Minister is of opinion that management or administration of affairs of board of health are inadequate

**74.**—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is

adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health.

Directions by  
Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Duty of  
board of  
health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action on  
behalf of  
board of  
health, etc.

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Action by  
board of  
health

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Right of  
access

Duration of  
directions

(7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants

**75.** The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of  
health units

**76.**—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and  
liabilities

(2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

Alteration of  
boundaries of  
health units

(3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Order by  
Minister

(4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

## PART VII

### ADMINISTRATION

Investigation  
re disease  
and mortality

**77.**—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Direction to  
investigate

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of investigator

R.S.O. 1980, c. 411

**78.**—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health laboratory centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction by Minister

**79.**—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.

Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.

Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.

Certificate of appointment

**80.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Chief Medical Officer of Health

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Qualifications



Duty of Chief  
M.O.H. re  
occupational  
and environ-  
mental health

(3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.

Examinations  
of records by  
Chief  
Medical  
Officer of  
Health  
Copies

**81.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation

(3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board  
of health not  
providing  
health  
program or  
service

**82.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses

(2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where  
situation of  
risk to health

**83.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of  
Chief  
Medical  
Officer of  
Health

**84.**—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

- (a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and
- (b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,

- (i) that the person has power to do under this Act,  
or

- (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority and duty of person directed to act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and
- (b) the person shall carry out the direction as soon as practicable.

**85.**—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

**86.**—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of premises for temporary isolation facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of  
possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and  
submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for  
possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
  - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
  - (ii) is not likely to comply with the Minister's order under subsection (1), or
  - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution of  
warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.



(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

*Ex parte*  
application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located.

Termination  
of use of  
premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation.

Compensation

R.S.O. 1980,  
c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section.

Application  
of R.S.O.  
1980, c. 148

**87.** The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit,

Northern  
Ontario  
Public Health  
Service

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

**88.—**(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

Health  
services in  
isolated  
municipalities

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals

whose services may be employed by a board of health.

Idem

(2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of  
ss. 87, 88

**89.**—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application  
of subs. (1)

(2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement  
with organi-  
zation

**90.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.

Hearings

**91.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

Appointment  
of public  
health  
professionals

**92.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

Provincial  
analysts

**93.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

Protection  
from  
personal  
liability

**94.**—(1) No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any

act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

## PART VIII

### REGULATIONS

**95.—**(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

Regulations  
relating to  
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations  
relating to  
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
  - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
  - (ii) requiring the installation and maintenance of safety equipment,
  - (iii) requiring the presence of lifeguards and other staff, and
  - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of



persons who are employed on or in food premises and requiring compliance therewith;

- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughter-houses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations  
relating to  
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;

- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

Regulations  
relating to  
Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
  - (i) the number of municipal members of the board,
  - (ii) by whom each of the municipal members of the board shall be appointed,
  - (iii) the area or place that each municipal member of the board is to represent,
  - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody,



keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,

- (i) the proceedings of boards of health,
- (ii) the text of by-laws and resolutions of boards of health,
- (iii) the financial and administrative affairs of boards of health,
- (iv) mandatory health programs and services,
- (v) other health programs and services,
- (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations  
by Minister

**96.** The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of  
regulations

**97.—(1)** A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption of  
codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the

same type or with the same attributes, qualities or characteristics.

**98.** Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

Form, etc.,  
of reports or  
notices

## PART IX

### ENFORCEMENT

**99.**—(1) Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,  
orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

Offence,  
reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Offence,  
sections of  
Act

(4) Any person who contravenes a regulation is guilty of an offence.

Offence,  
regulations

**100.**—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is convicted of an offence under this Act,

Directors,  
officers,  
employees  
and agents

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings  
to restrain  
contra-  
vention of  
order

**101.**—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings  
to prohibit  
continuation  
or repetition  
of contra-  
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of  
order as  
evidence

**102.**—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate as  
evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of  
compliance  
with order

**103.** A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing  
false  
information

**104.** No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

**105.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to

the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service deemed made

PART X

TRANSITION AND REPEALS

**106.** Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health units  
R.S.O. 1980,  
c. 409

**107.** Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of health continued

**108.** The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board member continued in office

**109.** The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical officers of health continued in office

**110.—**(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance



## Repeals

**111.**—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

## Idem

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION CENTRE  
LICENSING ACT

## Idem

(3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-  
ment

**112.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

## Short title

**113.** The short title of this Act is the *Health Protection and Promotion Act, 1983*.







# BILL 138

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

## An Act respecting the Protection of the Health of the Public

THE HON. L. GROSSMAN  
Minister of Health

*(Reprinted as amended by the Social Development Committee)*



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## EXPLANATORY NOTES

The Bill revises the *Public Health Act*, except sections 3 to 5 (inspectors), sections 59 to 75 (medical laboratories and specimen collection centres) and sub-sections 150 (2), (3) and (4) (penalties).


The Bill is divided into the following parts:

- Part I — Interpretation
- Part II — Health Programs and Services
- Part III — Community Health Protection
- Part IV — Communicable Diseases
- Part V — Rights of Entry and Appeals from Orders
- Part VI — Health Units and Boards of Health
- Part VII — Administration
- Part VIII — Regulations
- Part IX — Enforcement
- Part X — Transition and Repeals

Part I contains section 1, the interpretation section, and section 2, which states that the purpose of the Act is to provide for the organization and delivery of health programs and services, the prevention of the spread of disease and the protection of the health of the people of Ontario.

Part II relates to the provision of mandatory and optional health programs and services by boards of health.

Part III, Community Health Protection, requires medical officers of health to provide for inspections in health units. Medical officers of health and public health inspectors are authorized to make orders to decrease the effect of or to eliminate health hazards. The term "health hazard" is defined in the Bill.

 The Part also requires medical officers of health to keep themselves informed in respect of matters related to occupational and environmental health and to respond to complaints about health hazards related to occupational or environmental health. Municipalities and Government ministries are required to provide information related to occupational or environmental health requested by a medical officer of health if the information is available and not restricted by law.

The Part also authorizes medical officers of health to direct the staff and agents of boards of health to do work in a health unit where a health hazard is apparent and an order may not be an effective way of dealing with it. The expenses incurred by a board of health in respect of a health hazard may be recovered by court action or may be added to the collector's roll and collected in the same manner as municipal real property taxes.

The regulation of food premises and the sale of milk are also dealt with in the Part.

The Part also authorizes the seizure and examination of anything that may be a health hazard.

The sale of unfit food is prohibited and potable water and toilets must be provided in residential buildings.

Part IV, Communicable Diseases, authorizes a medical officer of health to make orders to decrease or eliminate the risk to health presented by a communicable disease.

The Part requires hospital administrators and other health professionals to report the existence of prescribed diseases to the medical officer of health (M.O.H.) and requires the M.O.H. to report to the Ministry.

The Part also provides that where a person fails to comply with an order by a medical officer of health related to examination and treatment in respect of a virulent disease, a provincial offences court may order the detention, examination and treatment of the person. An order of a provincial offences court may be appealed to a county or district court and from there, with leave, to the Court of Appeal.

The Part also requires a physician to report to the medical officer of health the name and address of any patient who refuses or neglects treatment for a communicable disease (section 34).

The Part also deals with the control of communicable diseases in correctional institutions, training schools, lock-ups and observation and detention homes (section 37).

Confidentiality of information in respect of diseases is provided for in section 38.

Section 39, which prohibits unqualified persons from supplying drugs or providing treatment for the purpose of alleviating or curing a sexually transmitted disease is brought forward from section 11 of the *Venereal Diseases Prevention Act*.

Part V deals with rights of entry and appeals from orders made under the Act.

The Part also establishes the Health Protection Appeal Board.

Part VI deals with boards of health (located mainly in sections 17 to 48 of the *Public Health Act*) and medical officers of health.

The Part deals with the composition of boards of health, their legal status, names, meetings and records. Section 59 of the Bill relates specifically to the boards of health of the following Metropolitan Toronto municipalities: the Borough of Etobicoke, the City of North York, the Borough of Scarborough and the City of Toronto.

The Part also deals with the appointment of medical officers of health, their retirement, dismissal and status. Provision is also made for associate and acting medical officers of health and other staff, including public health nurses.

The duty of the municipalities in a health unit in relation to the expenses of the board of health of the health unit is dealt with in section 71.

Boards of health are required to provide reports to the Minister and the councils of municipalities in the health units served by the boards of health (section 72).

Section 73 authorizes inspection of the accounts of boards of health by financial inspectors appointed by the Minister.

Section 74 authorizes the Minister to direct the Chief Medical Officer of Health to provide advice and guidance to a board of health, the medical officer of health and the administrative and professional staffs of the board of health and to act in their place if they do not accede to his requests. The authority of this section

may be employed if the Minister is of the opinion that the quality of the management and administration of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

The payment of grants to boards of health and to persons or organizations is authorized (section 75).

The merger of health units and the alteration of the boundaries of health units are dealt with in section 76.

Part VII, Administration, authorizes the Minister to investigate causes of disease and provides for the appointment of a Chief Medical Officer of Health and states his authority to act.

The Chief Medical Officer of Health has authority to examine the records of a board of health (section 81).

Under section 82, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of any mandatory health program or service that a board of health is required to provide but is not providing.

Under section 83, the Minister may direct the Chief Medical Officer of Health to take appropriate action in a situation that constitutes or may constitute a risk to health.

The powers that may be exercised by the Chief Medical Officer of Health for the purposes of sections 82 and 83 are set out in section 84. The expenses of carrying out a direction by the Chief Medical Officer of Health or a medical officer of health are provided for in section 85.

The Part provides for the taking of premises for use as a temporary isolation facility.

The Part also provides for the appointment of provincial analysts.

The Part also provides for public health services in areas not within health units.

Part VIII provides for regulations and Part IX contains enforcement provisions.

Part X contains transition and repeal provisions including the repeal of:

1. *The Sanatoria for Consumptives Act.*
2. *The Venereal Diseases Prevention Act.*

(The subject-matter of these Acts is now dealt with in Part IV, Communicable Diseases.)

3. Section 2 of *The Borough of North York Act, 1977.*
4. *The Borough of Etobicoke Act, 1980.*

(The subject-matter of these is dealt with in Part VI, Health Units and Boards of Health.)





BILL 138

1982

## An Act respecting the Protection of the Health of the Public

HER MAJESTY, by and with the advice and consent  
of the Legislative Assembly of the Province of Ontario,  
enacts as follows:

### PART I

#### INTERPRETATION

#### 1.—(1) In this Act,

Interpre-  
tation

1. "Board" means the Health Protection Appeal Board under this Act;
2. "board of health" means a board of health established or continued under this Act and includes,
  - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
  - ii. a board of health under an Act establishing or continuing a regional municipality, and
  - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. "Chief Medical Officer of Health" means the Chief Medical Officer of Health under this Act;
4. "communicable disease" means a disease specified as a communicable disease by regulation made by the Minister;
5. "dwelling unit" means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
  - i. a condition of a premises,
  - ii. a substance, thing, plant or animal other than man, or
  - iii. a solid, liquid, gas or combination of any of them,
 that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes,

including school purposes, in an unorganized township or unsurveyed territory;

18. "occupier" includes,

i. a person who is in physical possession of premises,

ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or

iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

notwithstanding that there is more than one occupier of the same premises;

19. "operator", in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;

20. "physician" means a legally qualified medical practitioner;

21. "premises" means lands and structures, or either of them, and includes,

i. water,

ii. ships and vessels,

iii. trailers and portable structures designed or used for residence, business or shelter,

iv. trains, railway cars, vehicles and aircraft;

22. "public health inspector" means a public health inspector of a board of health;

23. "public health nurse" means a public health nurse of a board of health;

24. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
- i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
  - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
- i. Cholera,
  - ii. Diphtheria,
  - iii. Ebola virus disease,
  - iv. Gonorrhoea,
  - v. Hemorrhagic fever,
  - vi. Lassa fever,
  - vii. Leprosy,

viii. Marburg virus disease,

ix. Plague,

x. Syphilis,

xi. Smallpox,

xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of pre- Closing of  
mises is an order, premises

(a) to shut the premises so as to prevent entrance or access to the premises by any person; and

(b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

**2.** The purpose of this Act is to provide for the organization Purpose  
and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario.

**3.** This Act binds the Crown.

Act binds  
Crown

## PART II

### HEALTH PROGRAMS AND SERVICES

**4.** Every board of health,

Duty of  
board of  
health

(a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and

(b) shall perform such other functions as are required by or under this or any other Act.

**5.** Every board of health shall superintend, provide or ensure Mandatory  
the provision of health programs and services in the following health  
areas: programs  
and  
services

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
  - i. provision of counselling services,
  - ii. establishment of family planning services,
  - iii. programs to identify pregnant women who are in high-risk health categories,
  - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
  - v. provision of preschool and school health services,
  - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,  
c. 197

School  
pupils

**6.—(1)** Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

Consent  
of school

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the



school has agreed to the provision of the particular health program or service to the pupils attending the school.

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service. Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit. Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*. Separate school rights preserved 1867, c. 3; R.S.O. 1980, c. 129

**7.**—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines. Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry. Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*. Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails. Conflict

**8.** A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines. Extent of programs and services

**9.** A board of health may provide any other health program or service in any area in the health unit served by the board of health if, Optional health programs and services

(a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and

(b) the councils of the municipalities in the area approve of the provision of the health program or service.

## PART III

## COMMUNITY HEALTH PROTECTION

Duty to  
inspect

**10.**—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

1. Food premises and any food and equipment thereon or therein.
2. Premises used or intended for use as a boarding house or lodging house.

Complaint  
re health  
hazard  
related to  
occupational  
or  
environmental  
health

**11.**—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of  
M.O.H. re  
occupational  
and  
environmental  
health

**12.**—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of  
information  
to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

Order by  
M.O.H. or  
public health  
inspector re  
health hazard

**13.**—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a

written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition precedent to order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. Time

(4) An order under this section may include, but is not limited to, Idem

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;
- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person  
directed

(5) An order under this section may be directed to a person,

- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
- (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
- (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons  
for order

(6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral  
order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description  
of person  
directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions  
by M.O.H.

**14.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When M.O.H.  
may give  
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

(a) has refused to or is not complying with the order;

(b) is not likely to comply with the order promptly;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or


- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. Contents of directions

(4) Directions under this section may include, but are not limited to, Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

**15.—**(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction. Recovery of expenses by action

 (2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out, Statement to municipal clerk

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and



## (c) the location of the premises.

Collection (3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by occupier (4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by owner (5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food premises **16.**—(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of intention to commence operation (2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons employed on or in food premises (3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information (4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

Records (5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of

food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

**17.** No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause. Sale of diseased food

**18.—**(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Unpasteurized or unsterilized milk  
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*. Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*. Exception

(4) In subsection (2), "milk product" means a product processed or derived in whole or mainly from milk. Interpretation

**19.—**(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal. Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard. Examination

(3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized. Return

(4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard. Destruction



Food

(5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities  
required in  
residential  
buildings

 **20.** Every person who owns a residential building shall provide,

(a) potable water; and

(b) sanitary facilities or a privy,

for the residents of the residential building. 

## PART IV

### COMMUNICABLE DISEASES

Interpretation

**21.—**(1) In this Part,

(a) “institution” means,

R.S.O. 1980,  
c. 64

(i) “charitable institution” within the meaning of the *Charitable Institutions Act*,

R.S.O. 1980,  
c. 67

(ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,

R.S.O. 1980,  
c. 69

(iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,

R.S.O. 1980,  
c. 71

(iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,  
c. 114

(v) “day nursery” within the meaning of the *Day Nurseries Act*,

R.S.O. 1980,  
c. 118

(vi) “facility” within the meaning of the *Developmental Services Act*,

R.S.O. 1980,  
c. 201

(vii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*,

- (viii) "home for special care" within the meaning of the *Homes for Special Care Act*, R.S.O. 1980,  
c. 202
- (ix) "home" within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980,  
c. 203
- (x) "psychiatric facility" within the meaning of the *Mental Health Act*, R.S.O. 1980,  
262
- (xi) "approved home" and "institution" within the meaning of the *Mental Hospitals Act*, R.S.O. 1980,  
c. 263
- (xii) "correctional institution" within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980,  
c. 275
- (xiii) "lock-up" within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980,  
c. 302
- (xiv) "nursing home" within the meaning of the *Nursing Homes Act*, R.S.O. 1980,  
c. 320
- (xv) "private hospital" within the meaning of the *Private Hospitals Act*, R.S.O. 1980,  
c. 389
- (xvi) "sanitarium" within the meaning of the *Private Sanitaria Act*, R.S.O. 1980,  
c. 391
- (xvii) "training school" within the meaning of the *Training Schools Act*, R.S.O. 1980,  
c. 508

and includes any other place of a similar nature;

- (b) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, "administrator", "hospital", "out-patient" and "patient" have the same meanings as in the *Public Hospitals Act*. Idem  
R.S.O. 1980,  
c. 410

**22.**—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease. Order by  
M.O.H. re  
communicable  
disease

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds, Condition  
precedent  
to order

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a com-

municable disease in the health unit served by the medical officer of health;

(b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and

(c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may  
be included  
in order

(4) An order under this section may include, but is not limited to,

(a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;

(b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;

(c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;

(d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(e) requiring the destruction of the matter or thing specified in the order;

(f) requiring the person to whom the order is directed to submit to an examination by a physician and to deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

(g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;

(h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

**23.** Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

**24.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. Directions by M.O.H.

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20, When M.O.H. may give directions

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of  
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery  
of  
expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.

Duty to  
report  
disease  
R.S.O. 1980,  
cc. 196, 127

**25.** A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of  
disease

**26.** A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.



**27.**—(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

**28.** The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

**29.**—(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Contents and time of report

(3) In this section “laboratory” has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Interpretation R.S.O. 1980, c. 409

**30.** A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Duty to report death R.S.O. 1980, c. 524

**31.** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Reports by M.O.H. re diseases

Communica-  
tion  
between  
medical  
officers of  
health

**32.**—(1) A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Transmittal  
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communicable  
diseases of  
the eyes

**33.** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Physician  
to report  
refusal or  
neglect of  
treatment

**34.**—(1) Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to  
be made  
to M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

Transmittal  
to M.O.H.  
where  
person  
resides

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Additional  
information

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Order by  
provincial  
offences  
court

**35.**—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

When court  
may make  
order

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,



- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents  
of order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to provide detention, care and treatment for the person who is the subject of the order.

Capability  
of hospital

(5) An order under this section is authority for any person,

Delivery  
to hospital

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Police  
assistance

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Care and  
treatment

Physician  
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

Idem

(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.

Order  
to continue  
detention  
and treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,

(a) that the person continues to be infected with an agent of a virulent disease; and

(b) that the discharge of the person from the hospital would present a significant risk to the health of the public,

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

Release  
and discharge  
from hospital

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Certificate  
of M.O.H.

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.

Hearing of  
application

(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

- (a) matters involving public security may be disclosed; or
- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on proceeding before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpretation

(17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

Appeal  
R.S.O. 1980,  
c. 400

(18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.

Stay

(19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.

Appeal to Court of Appeal

(20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.

Grounds for leave

**36.**—(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Where person withdraws from care and treatment

Failure to  
comply with  
isolation  
order

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.

Examination  
of person  
under  
detention

**37.**—(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Order  
by M.O.H.  
re person  
under  
detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

Interpretation

(3) In this section,

R.S.O. 1980,  
c. 275

(a) “correctional institution” has the same meaning as in the *Ministry of Correctional Services Act*;

R.S.O. 1980,  
c. 302

(b) “lock-up” has the same meaning as in section 206 of the *Municipal Act*;

R.S.O. 1980,  
c. 398

(c) “observation and detention home” has the same meaning as in the *Provincial Courts Act*;

R.S.O. 1980,  
c. 508

(d) “training school” has the same meaning as in the *Training Schools Act*.

Confidentiality

**38.**—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Exceptions

(2) Subsection (1) does not apply,

(a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;

- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or R.S.O. 1980, cc. 196, 410, 197  
R.S.C. 1970, cc. M-8, C-34
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child. R.S.O. 1980, c. 66

**39.**—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease. Supply of drugs, etc., by unqualified person prohibited

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance. Exception re pharmacist  
R.S.O. 1980, c. 196

## PART V

### RIGHTS OF ENTRY

#### AND

### APPEALS FROM ORDERS

**40.**—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following: Interpretation, persons

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following: Interpretation, purposes



1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

Entry (3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations (4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

Samples or extracts (5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2).

Reasonable times (6) The authority under subsections (3) to (5) shall be exercised only at reasonable times.

Private residence (7) Subsection (3) is not authority to enter a private residence without the consent of the occupier.

Food premise (8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry.

Compliance with requirement (9) An operator of a food premise shall comply promptly with a requirement under subsection (8).

Copies (10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original.

Application for warrant (11) If an occupier of premises,

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;

- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

**41.**—(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a medical officer of health lawfully carrying out a power, duty or direction under this Act. Obstruction

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1). Private residence

**42.**—(1) Where a justice of the peace is satisfied on evidence upon oath, Warrant by justice of the peace

(a) that there is reasonable and probable ground for believing that it is necessary,

- (i) to enter and have access to, through and over any premises,
- (ii) to make examinations, investigations, tests and inquiries, and
- (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

(b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,

- (i) has been denied entry to the premises,



(ii) has been instructed to leave the premises,

(iii) has been obstructed, or

(iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

Execution  
of warrant

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.

Expiry of  
warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued.

*Ex parte*  
application

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

Notice of  
right to  
hearing

**43.**—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may so require such a hearing.

Oral  
order


(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order.

Effect of  
order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect,

(a) when it is served on the person to whom it is directed;  
or

- (b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of. 

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order. Powers of Board

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just. Time for hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension. Extension of time for hearing

**44.—**(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. Parties

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing. Examination of documentary evidence

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor inde- Members holding hearing not to have taken part in investigation, etc.

pendent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Only members  
at hearing  
to participate  
in decision

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Release of  
documentary  
evidence

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Appeal to  
court

**45.**—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Stay of  
order

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Record to be  
filed in court

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Minister  
entitled  
to be heard

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Powers of  
court on  
appeal

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Health  
Protection  
Appeal  
Board

**46.**—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board. Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman. Vacancy

(4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms. Terms

(5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council. Remuneration

(6) Three members of the Board constitute a quorum. Quorum

(7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment. Sittings

(8) The Board may determine its own practice and procedure in relation to a hearing. Practice and procedure

(9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings. Decision

(10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private. Hearings to be public, exceptions

## PART VI

### HEALTH UNITS AND BOARDS OF HEALTH

**47.** There shall be a board of health for each health unit. Boards of health

**48.—(1)** A board of health is composed of the members appointed to the board under this Act and the regulations. Composition of board of health



- Municipal members (2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
- Appointments by Lieutenant Governor in Council (3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
- Remuneration (4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.
- Expenses (5) A board of health shall pay the reasonable and actual expenses of each member of the board of health.
- Rate of remuneration (6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate.
- Term of office (7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council.
- Disqualification (8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*.
- R.S.O. 1980, c. 302
- Application of subss. (1-8) (9) Subsections (1) to (8) do not apply to,
- R.S.O. 1980, c. 365
- (a) the board of health under the *County of Oxford Act*;
  - (b) a board of health under an Act establishing or continuing a regional municipality; or
  - (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.
- Application of R.S.O. 1980, c. 302 (10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards).
- Member of municipal council (11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other

than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality.

**49.**—(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which, Agreement with council of band

(a) the board agrees to provide health programs and services to the members of the band; and

(b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

(2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit. Appointment of member by council of band

(3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2). Joint appointment

(4) An appointment under this section may be for one, two or three years. Term

(5) In this section, “band”, “council of the band” and “reserve” have the same meanings as in the *Indian Act* (Canada). Interpretation R.S.C. 1970, c. I-6

**50.**—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years. Term of office

(2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member. Vacancy

(3) No person whose services are employed by a board of health is qualified to be a member of the board of health. Disqualification

**51.**—(1) Every board of health is a corporation without share capital. Board to be corporation

(2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health. Application of R.S.O. 1980, cc. 95, 96

Real  
property

(3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents  
required

(4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

Name of  
board

**52.** The name of each board of health shall be the "Board of Health for the .....  
(*inserting the name of the health unit*)  
Health Unit".

Quorum

**53.** A majority of the members of a board of health constitutes a quorum of the board.

Application of  
ss. 51-53,  
55-58


**54.** Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.


By-laws

**55.—(1)** A board of health shall pass by-laws respecting,

- (a) the management of its property;
- (b) banking and finance;
- (c) the calling of and proceedings at meetings; and
- (d) the appointment of an auditor.

Idem

 **(2)** A board of health may pass by-laws respecting,

- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
- (b) any other matter necessary or advisable for the management of the affairs of the board of health. 

First meeting

**56.—(1)** A board of health shall hold its first meeting of each year not later than the 1st day of February.

Chairman

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.



**57.** A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it. Minutes

**58.—**(1) A board of health shall keep or cause to be kept, Financial records

- (a) books, records and accounts of its financial affairs;
- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to, Annual financial statements

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations. Retention of records



**59.—**(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2), Certain boards of health in Metropolitan Toronto

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

(2) The municipalities referred to in subsection (1) are the following: Municipalities specified

1. The Borough of Etobicoke.
2. The City of North York.

## 3. The Borough of Scarborough.

## 4. The City of Toronto.

Duty of  
board of  
health

**60.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Medical  
officer of  
health

**61.** Every board of health,

(a) shall appoint a full-time medical officer of health; and

(b) may appoint one or more associate medical officers of health,

of the board of health.

Use of title

**62.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Eligibility for  
appointment

**63.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

(a) he is a physician;

(b) he possesses the qualifications and requirements prescribed by the regulations for the position; and

(c) the Minister approves the proposed appointment.

Retirement

**64.—(1)** Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Extension

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Dismissal

**65.—(1)** A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

(a) the decision is carried by the vote of two-thirds of the members of the board; and

(b) the Minister consents in writing to the dismissal.

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health, Notice and attendance

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

**66.**—(1) The medical officer of health of a board of health is the executive officer of the board. Executive officer

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board. Direction of staff

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board. Management and administration

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health. Area of authority

**67.**—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health. Duties of associate M.O.H.

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health. Where M.O.H. absent or unable to act

**68.**—(1) Where, Acting M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

Powers and  
duties

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Attendance  
at meetings  
of boards

**69.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Staff

**70.—**(1) Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Qualifications

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Public  
health  
nurse

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

(a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and

(b) meets such additional qualifications and requirements as are prescribed by the regulations.

Expenses

**71.—**(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

Municipal  
authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

**72.** Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require. Reports

**73.—**(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister. Financial inspectors

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations. Obstruction

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires. Information

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector. Access to records

**74.—**(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health. Where Minister is of opinion that management or administration of affairs of board of health are inadequate

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health. Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medi- Duty of board of health



cal Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Action on  
behalf of  
board of  
health, etc.

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action by  
board of  
health

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative or professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Right of  
access

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Duration of  
directions

(7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants

**75.** The Minister may pay grants,

(a) to boards of health;

(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of  
health units

**76.**—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and  
liabilities

(2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health

units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

(3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Alteration  
of boundaries  
of health  
units

(4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

Order by  
Minister

## PART VII

### ADMINISTRATION

**77.**—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Investiga-  
tion re  
disease and  
mortality

(2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.

Direction to  
investigate

(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of  
investigator

R.S.O. 1980,  
c. 411

**78.**—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health  
laboratory  
centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction  
by Minister

**79.**—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment  
of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other

Duty



public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

- Limitation (3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.
- Directions and reports (4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.
- Certificate of appointment (5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.
- Chief Medical Officer of Health **80.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.
- Qualifications (2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.
- Duty of Chief M.O.H re - occupational and environmental health (3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.
- Examinations of records by Chief Medical Officer of Health **81.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.
- Copies (2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.
- Delegation (3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.
- Where board of health not providing health program or service **82.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.
- Expenses (2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the

expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

**83.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Where  
situation  
of risk  
to health

**84.—(1)** For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

Powers of  
Chief Medical  
Officer of  
Health

- (a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and
- (b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,
  - (i) that the person has power to do under this Act, or
  - (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority  
and duty  
of person  
directed  
to act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and
- (b) the person shall carry out the direction as soon as practicable.

**85.—(1)** The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

Idem

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Possession  
of premises  
for temporary  
isolation  
facility

**86.**—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Grounds  
for order

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

(a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and

(b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of  
possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and  
submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for  
possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

(a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;

(b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and

(c) that the occupier of the premises,

(i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),

(ii) is not likely to comply with the Minister's order under subsection (1), or

(iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located. Termination of use of premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation. Compensation R.S.O. 1980, c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section. Application of R.S.O. 1980, c. 148

**87.** The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Northern Ontario Public Health Service

Ontario that are designated by the Minister and that are not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

Health  
services  
in isolated  
municipalities

**88.**—(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals whose services may be employed by a board of health.

Idem

(2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

Repeal of  
ss. 87, 88

**89.**—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

Application  
of subs. (1)

(2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

Agreement  
with  
organization

**90.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health



inspectors and other public health professionals that may be employed by a board of health.

**91.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act. Hearings

**92.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health. Appointment of public health professionals

**93.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned. Provincial analysts

**94.—(1)** No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power. Protection from personal liability

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

## PART VIII

### REGULATIONS

**95.—(1)** The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.

Regulations  
relating to  
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations  
relating to  
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
  - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
  - (ii) requiring the installation and maintenance of safety equipment,
  - (iii) requiring the presence of lifeguards and other staff, and
  - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;



- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of persons who are employed on or in food premises and requiring compliance therewith;
- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughter-houses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;

- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations  
relating to  
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional

information and the form and content of such reports and additional information;

- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;
- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI, Regulations  
relating to  
Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
  - (i) the number of municipal members of the board,
  - (ii) by whom each of the municipal members of the board shall be appointed,
  - (iii) the area or place that each municipal member of the board is to represent,
  - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
- (vi) a board of health under an Act establishing or continuing a regional municipality, or
- (vii) a regional corporation that, under the Act establishing or continuing the regional corpora-

tion, has the powers, rights and duties of a local board of health or of a board of health;

- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
- (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody, keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,
  - (i) the proceedings of boards of health,
  - (ii) the text of by-laws and resolutions of boards of health,
  - (iii) the financial and administrative affairs of boards of health,
  - (iv) mandatory health programs and services,
  - (v) other health programs and services,
  - (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations  
by Minister

**96.** The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of  
regulations

**97.—(1)** A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption  
of codes

(2) A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code,

formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

(3) A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the same type or with the same attributes, qualities or characteristics. Classes

**98.** Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations. Form, etc., of reports or notices

## PART IX

### ENFORCEMENT

**99.**—(1) Any person who fails to obey an order made under this Act is guilty of an offence. Offence, orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence. Offence, reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence. Offence, sections of Act

(4) Any person who contravenes a regulation is guilty of an offence. Offence, regulations

**100.**—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues. Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1). Corporation

(3) Where a corporation is convicted of an offence under this Act, Directors, officers, employees and agents

(a) each director of the corporation; and



- (b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings  
to restrain  
contravention  
of order

**101.**—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings  
to prohibit  
continuation  
or repetition  
of contra-  
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of  
order as  
evidence

**102.**—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate  
as evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of  
compliance  
with order

**103.** A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

**104.** No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Furnishing  
false  
information

**105.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to the person to whom it is to be given, served or delivered at his last known address.

Service

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service  
deemed made

## PART X

### TRANSITION AND REPEALS

**106.** Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health  
units  
R.S.O. 1980,  
c. 409

**107.** Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of  
health  
continued  
R.S.O. 1980,  
c. 409

**108.** The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board  
member  
continued  
in office

**109.** The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical  
officers of  
health  
continued  
in office

**110.**—(1) The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the

By-laws  
continued



regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

Compliance (2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Repeals **111.**—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem (2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION  
CENTRE LICENSING ACT

Idem (3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-  
ment **112.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title **113.** The short title of this Act is the *Health Protection Act, 1982*.







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An Act respecting the Protection  
of the Health of the Public

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*1st Reading*

June 8th, 1982

*2nd Reading*

June 29th, 1982

*3rd Reading*

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THE HON. L. GROSSMAN  
Minister of Health

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(Reprinted as amended by the  
Social Development Committee)

# Bill 138

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2ND SESSION, 32ND LEGISLATURE, ONTARIO

31 ELIZABETH II, 1982

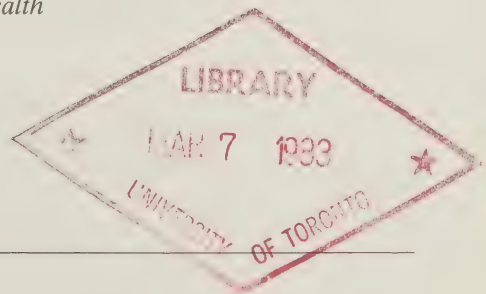
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## Bill 138

(Chapter 10  
Statutes of Ontario, 1983)

### **An Act respecting the Protection and Promotion of the Health of the Public**

The Hon. L. Grossman  
*Minister of Health*



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<i>1st Reading</i>	June 8th, 1982
<i>2nd Reading</i>	June 29th, 1982
<i>3rd Reading</i>	February 14th, 1983
<i>Royal Assent</i>	February 23rd, 1983

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## Bill 138

1982

**An Act respecting the Protection  
and Promotion of the Health of the Public**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

**1.—(1)** In this Act,

Interpre-  
tation

1. “Board” means the Health Protection Appeal Board under this Act;
2. “board of health” means a board of health established or continued under this Act and includes,
  - i. the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
  - ii. a board of health under an Act establishing or continuing a regional municipality, and
  - iii. a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
3. “Chief Medical Officer of Health” means the Chief Medical Officer of Health under this Act;
4. “communicable disease” means a disease specified as a communicable disease by regulation made by the Minister;
5. “dwelling unit” means real property used or designed for use as a home or as a place in which one or more persons may sleep;

6. "food" means food or drink for human consumption, and includes an ingredient of food or drink for human consumption;
7. "food premise" means a premises where food or milk is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale, but does not include a private residence;
8. "guidelines" means guidelines published by the Minister under this Act;
9. "health hazard" means,
  - i. a condition of a premises,
  - ii. a substance, thing, plant or animal other than man, or
  - iii. a solid, liquid, gas or combination of any of them,that has or that is likely to have an adverse effect on the health of any person;
10. "health unit" means an area that, by or under any Act, is the area of jurisdiction of a board of health;
11. "mandatory", in relation to a health program or service, means a health program or service mentioned in section 5;
12. "medical officer of health" means a medical officer of health of a board of health;
13. "milk" means milk from cows, goats or sheep;
14. "Minister" means Minister of Health;
15. "Ministry" means Ministry of Health;
16. "municipal member", in relation to a board of health, means a person appointed to the board of health by the council of a municipality;
17. "municipality" means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority

exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory;

18. “occupier” includes,

- i. a person who is in physical possession of premises,
- ii. a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises, or
- iii. a person for the time being receiving the rent of premises, whether as principal or as agent or trustee for another person, or who would so receive the rent if the premises were let, or who is responsible for the payment of municipal taxes,

notwithstanding that there is more than one occupier of the same premises;

19. “operator”, in relation to a food premise, means a person who has responsibility for and control over an activity there carried on, notwithstanding that there is more than one operator of the same food premise;
20. “physician” means a legally qualified medical practitioner;
21. “premises” means lands and structures, or either of them, and includes,
  - i. water,
  - ii. ships and vessels,
  - iii. trailers and portable structures designed or used for residence, business or shelter,
  - iv. trains, railway cars, vehicles and aircraft;
22. “public health inspector” means a public health inspector of a board of health;
23. “public health nurse” means a public health nurse of a board of health;

24. "public pool" means a structure, basin, chamber or tank containing or intended to contain an artificial body of water for swimming, water sport, water recreation or entertainment, but does not include,
  - i. one that is located on a private residential property under the control of the owner or occupant and that is limited to use for swimming or bathing by the owner or occupant, members of his family and their visitors, or
  - ii. one that is used solely for commercial display and demonstration purposes;
25. "regulations" means regulations made under this Act;
26. "reportable disease" means a disease specified as a reportable disease by regulation made by the Minister;
27. "residential building" means a structure that contains one or more dwelling units;
28. "sanitary facilities" means a room or rooms containing one or more toilets and one or more washbasins;
29. "school" means a "private school" and a "school" as defined in the *Education Act*;
30. "school board" means a board as defined in the *Education Act*;
31. "sexually transmitted disease" means a disease caused by an infectious agent usually transmitted during sexual contact;
32. "virulent disease" means,
  - i. Cholera,
  - ii. Diphtheria,
  - iii. Ebola virus disease,
  - iv. Gonorrhoea,
  - v. Hemorrhagic fever,
  - vi. Lassa fever,

- vii. Leprosy,
- viii. Marburg virus disease,
- ix. Plague,
- x. Syphilis,
- xi. Smallpox,
- xii. Tuberculosis,

or a disease specified as a virulent disease by regulation made by the Minister.

(2) An order under this Act that requires the closing of premises is an order, Closing of premises

- (a) to shut the premises so as to prevent entrance or access to the premises by any person; and
- (b) to suspend the operation of any enterprise or activity on or in the premises,

except by such persons or for such purposes as are specified in the order.

**2.** The purpose of this Act is to provide for the organization and delivery of public health programs and services, the prevention of the spread of disease and the promotion and protection of the health of the people of Ontario. Purpose

**3.** This Act binds the Crown. Act binds Crown

## PART II

### HEALTH PROGRAMS AND SERVICES

- 4.** Every board of health, Duty of board of health
- (a) shall superintend, provide or ensure the provision of the health programs and services required by this Act and the regulations to the persons who reside in the health unit served by the board; and
  - (b) shall perform such other functions as are required by or under this or any other Act.

Mandatory  
health  
programs and  
services

**5.** Every board of health shall superintend, provide or ensure the provision of health programs and services in the following areas:

1. Community sanitation, to ensure the maintenance of sanitary conditions and the prevention or elimination of health hazards.
2. Control of communicable diseases, including provision of immunization services to children and adults.
3. Preventive dentistry, including provision of preventive dental services to persons residing in the health unit and provision of dental health education, oral hygiene and fluoride therapy programs to school children.
4. Family health, including,
  - i. provision of counselling services,
  - ii. establishment of family planning services,
  - iii. programs to identify pregnant women who are in high-risk health categories,
  - iv. provision of health services to infants, pregnant women in high-risk health categories and the elderly,
  - v. provision of preschool and school health services,
  - vi. collection and analysis of epidemiological data.
5. Home care services that are insured services under the *Health Insurance Act*, including services to the acutely ill and the chronically ill.
6. Nutrition, including provision of consulting and educational services and identification of nutrition services needed by persons residing in the health unit served by the board of health.
7. Public health education, including education in the prevention and control of life-style diseases.
8. Such additional health programs and services as are prescribed by the regulations.

R.S.O. 1980,  
c. 197



6.—(1) Every board of health shall provide such of the health programs and services as are prescribed by the regulations for the purposes of this section to the pupils attending schools within the health unit served by the board of health.

School pupils

(2) Subsection (1) does not apply in respect of pupils attending a school unless the person or organization that operates the school has agreed to the provision of the particular health program or service to the pupils attending the school.

Consent of school

(3) Subsection (1) applies only in respect of the classifications of pupils prescribed by the regulations in respect of a health program or service.

Application of subs. (1)

(4) Where a board of health is required by this Act or the regulations, on request of a person or organization that operates a school, to provide or ensure the provision of a health program or service, no person or organization that operates a school in the health unit served by the board of health shall provide or ensure the provision of the health program or service to a pupil in the school without the approval of the medical officer of health for the health unit.

Prohibition

(5) Subsections (1) to (4) shall not be construed to adversely affect any right or privilege respecting separate schools enjoyed by separate school boards or their supporters under the *Constitution Act, 1867* and the *Education Act*.

Separate school rights preserved  
1867, c. 3;  
R.S.O. 1980, c. 129

7.—(1) The Minister may publish guidelines for the provision of mandatory health programs and services and every board of health shall comply with the published guidelines.

Guidelines

(2) Guidelines shall be transmitted to each board of health and shall be available for public inspection in the Ministry.

Idem

(3) A guideline is not a regulation within the meaning of the *Regulations Act*.

Application of R.S.O. 1980, c. 446

(4) In the event of conflict between a regulation and a guideline, the regulation prevails.

Conflict

8. A board of health is not required by this Part to provide or ensure the provision of a mandatory health program or service referred to in this Part except to the extent and under the conditions prescribed by the regulations and the guidelines.

Extent of programs and services

9. A board of health may provide any other health program or service in any area in the health unit served by the board of health if,

Optional health programs and services



- (a) the board of health is of the opinion that the health program or service is necessary or desirable, having regard to the needs of persons in the area; and
- (b) the councils of the municipalities in the area approve of the provision of the health program or service.

### PART III

#### COMMUNITY HEALTH PROTECTION

Duty to inspect

**10.**—(1) Every medical officer of health shall inspect or cause the inspection of the health unit served by him for the purpose of preventing, eliminating and decreasing the effects of health hazards in the health unit.

Idem

(2) The duty of every medical officer of health under subsection (1) includes, but is not limited to, the duty to inspect or cause the inspection of the following:

- 1. Food premises and any food and equipment thereon or therein.
- 2. Premises used or intended for use as a boarding house or lodging house.

Complaint re health hazard related to occupational or environmental health

**11.**—(1) Where a complaint is made to a board of health or a medical officer of health that a health hazard related to occupational or environmental health exists in the health unit served by the board of health or the medical officer of health, the medical officer of health shall notify the ministry of the Government of Ontario that has primary responsibility in the matter and, in consultation with the ministry, the medical officer of health shall investigate the complaint to determine whether the health hazard exists or does not exist.

Report

(2) The medical officer of health shall report the results of the investigation to the complainant, but shall not include in the report medical information in respect of a person other than the complainant without the consent of the person or, in the case of a child, of a parent or other person who has lawful custody of the child.

Duty of M.O.H. re occupational and environmental health

**12.**—(1) Every medical officer of health shall keep himself informed in respect of matters related to occupational and environmental health.

Provision of information to M.O.H.

(2) The Ministry of the Environment, the Ministry of Health, the Ministry of Labour or a municipality shall provide to a medical officer of health such information in respect of any

matter related to occupational or environmental health as is requested by the medical officer of health, is in the possession of the ministry or municipality and the ministry or municipality is not prohibited by law from disclosing.

**13.**—(1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard.

Order by  
M.O.H. or  
public health  
inspector re  
health hazard

(2) A medical officer of health or a public health inspector may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

Condition  
precedent to  
order

- (a) that a health hazard exists in the health unit served by him; and
- (b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard.

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

Time

(4) An order under this section may include, but is not limited to,

Idem

- (a) requiring the vacating of premises;
- (b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (d) requiring the doing of work specified in the order in, on or about premises specified in the order;
- (e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;
- (f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (g) requiring the destruction of the matter or thing specified in the order;

- (h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;
- (i) prohibiting or regulating the use of any premises or thing.

Person  
directed

(5) An order under this section may be directed to a person,

- (a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;
- (b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or
- (c) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health or the public health inspector.

Reasons for  
order

(6) An order under this section is not effective unless the reasons for the order are set out in the order.

Oral order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order.

Description  
of person  
directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

Directions by  
M.O.H.

**14.—**(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When  
M.O.H. may  
give  
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a

health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard.

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard.

Contents of  
directions

(4) Directions under this section may include, but are not limited to,

Idem

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;
- (b) requiring the doing of work specified in the directions in, on or about any premises;
- (c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;
- (d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;
- (e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;
- (f) requiring the destruction of any thing specified in the directions.

**15.—**(1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the board of health by action in a court of competent jurisdiction.

Recovery of  
expenses by  
action



Statement to  
municipal  
clerk

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

- (a) the amount of the costs and expenses;
- (b) the name of the owner of the premises; and
- (c) the location of the premises.

Collection

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health.

Recovery by  
occupier

(4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner.

Recovery by  
owner

(5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner.

Food  
premises

**16.—**(1) Every person who operates a food premise shall maintain and operate the food premise in accordance with the regulations.

Notice of  
intention to  
commence  
operation

(2) Every person who intends to commence to operate a food premise shall give notice of his intention to the medical officer of health of the health unit in which the food premise will be located.

Persons  
employed on  
or in food  
premises

(3) Every person employed on or in a food premise shall comply with the standards and requirements prescribed by the regulations for such persons.

Information

(4) Every person who operates a food premise shall furnish the medical officer of health of the health unit in which the food premise is located with such information as the medical officer of health requests in respect of the manufacturing,

processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in the food premise and the distribution of food from the food premise.

(5) Every person who operates a food premise shall keep such records in respect of the manufacturing, processing, preparation, storage, handling, display, transportation and sale, or offering for sale of food on or in the food premise and the distribution of food from the food premise as are prescribed by the regulations, and shall keep the records in such form, with such detail and for such length of time as are prescribed by the regulations.

Records

**17.** No person shall sell or offer for sale any food that is unfit for human consumption by reason of disease, adulteration, impurity or other cause.

Sale of diseased food

**18.—**(1) No person shall sell, offer for sale, deliver or distribute milk or cream that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Unpasteurized or unsterilized milk  
R.S.O. 1980, c. 266

(2) No person shall sell, offer for sale, deliver or distribute a milk product processed or derived from milk that has not been pasteurized or sterilized in a plant that is licensed under the *Milk Act* or in a plant outside Ontario that meets the standards for plants licensed under the *Milk Act*.

Milk products

(3) Subsection (1) does not apply in respect of milk or cream that is sold, offered for sale, delivered or distributed to a plant licensed under the *Milk Act*.

Exception

(4) In subsection (2), “milk product” means a product processed or derived in whole or mainly from milk.

Interpretation

**19.—**(1) A medical officer of health or a public health inspector who is of the opinion, upon reasonable and probable grounds, that a condition of any substance, thing, plant or animal other than man is a health hazard may seize or cause the seizure of the substance, thing, plant or animal.

Seizure

(2) The medical officer of health or public health inspector shall detain the substance, thing, plant or animal pending such examination or investigation as is necessary in his opinion or as is requested by the owner or person from whom the substance, thing, plant or animal was seized, to determine the existence of the health hazard.

Examination

Return (3) Where the examination or investigation indicates that a health hazard is not present, the medical officer of health or public health inspector shall release the substance, thing, plant or animal to the owner or person from whom it was seized.

Destruction (4) Where the examination or investigation indicates that a health hazard is present, the medical officer of health or public health inspector shall destroy or dispose of the substance, thing, plant or animal or take such other action as will eliminate or decrease the health hazard.

Food (5) Where food is seized under this section and the medical officer of health or public health inspector is of the opinion, upon reasonable and probable grounds, that the condition of the food is a health hazard, subsections (2) and (3) do not apply and he may destroy or dispose of the food or cause it to be destroyed or disposed of without further examination or investigation.

Facilities required in residential buildings **20.** Every person who owns a residential building shall provide,

- (a) potable water; and
- (b) sanitary facilities or a privy,

for the residents of the residential building.

## PART IV

### COMMUNICABLE DISEASES

Interpretation **21.—**(1) In this Part,

(a) “institution” means,

- (i) “charitable institution” within the meaning of the *Charitable Institutions Act*,
- (ii) “children’s institution” within the meaning of the *Children’s Institutions Act*,
- (iii) “children’s mental health centre” within the meaning of the *Children’s Mental Health Services Act*,
- (iv) “children’s residence” within the meaning of the *Children’s Residential Services Act*,

R.S.O. 1980,  
c. 64

R.S.O. 1980,  
c. 67

R.S.O. 1980,  
c. 69

R.S.O. 1980,  
c. 71



- (v) “day nursery” within the meaning of the *Day Nurseries Act*, R.S.O. 1980, c. 111
- (vi) “facility” within the meaning of the *Developmental Services Act*, R.S.O. 1980, c. 118
- (vii) “approved home” and “home for retarded persons” within the meaning of the *Homes for Retarded Persons Act*, R.S.O. 1980, c. 201
- (viii) “home for special care” within the meaning of the *Homes for Special Care Act*, R.S.O. 1980, c. 202
- (ix) “home” within the meaning of the *Homes for the Aged and Rest Homes Act*, R.S.O. 1980, c. 203
- (x) “psychiatric facility” within the meaning of the *Mental Health Act*, R.S.O. 1980, c. 262
- (xi) “approved home” and “institution” within the meaning of the *Mental Hospitals Act*, R.S.O. 1980, c. 263
- (xii) “correctional institution” within the meaning of the *Ministry of Correctional Services Act*, R.S.O. 1980, c. 275
- (xiii) “lock-up” within the meaning of section 206 of the *Municipal Act*, R.S.O. 1980, c. 302
- (xiv) “nursing home” within the meaning of the *Nursing Homes Act*, R.S.O. 1980, c. 320
- (xv) “private hospital” within the meaning of the *Private Hospitals Act*, R.S.O. 1980, c. 389
- (xvi) “sanitarium” within the meaning of the *Private Sanitaria Act*, R.S.O. 1980, c. 391
- (xvii) “training school” within the meaning of the *Training Schools Act*, R.S.O. 1980, c. 508

and includes any other place of a similar nature;

- (b) “superintendent” means the person who has for the time being the direct and actual superintendence and charge of an institution.

(2) In this Part, “administrator”, “hospital”, “out-patient” and “patient” have the same meanings as in the *Public Hospitals Act*. Idem R.S.O. 1980, c. 410

Order by  
M.O.H. re  
communi-  
cable disease

**22.**—(1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.

Condition  
precedent to  
order

(2) A medical officer of health may make an order under this section where he is of the opinion, upon reasonable and probable grounds,

- (a) that a communicable disease exists or may exist or that there is an immediate risk of an outbreak of a communicable disease in the health unit served by the medical officer of health;
- (b) that the communicable disease presents a risk to the health of persons in the health unit served by the medical officer of health; and
- (c) that the requirements specified in the order are necessary in order to decrease or eliminate the risk to health presented by the communicable disease.

Time

(3) In an order under this section, a medical officer of health may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order.

What may be  
included in  
order

(4) An order under this section may include, but is not limited to,

- (a) requiring the owner or occupier of premises to close the premises or a specific part of the premises;
- (b) requiring the placarding of premises to give notice of an order requiring the closing of the premises;
- (c) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself and remain in isolation from other persons;
- (d) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;
- (e) requiring the destruction of the matter or thing specified in the order;
- (f) requiring the person to whom the order is directed to submit to an examination by a physician and to

deliver to the medical officer of health a report by the physician as to whether or not the person has a communicable disease or is or is not infected with an agent of a communicable disease;

- (g) requiring the person to whom the order is directed in respect of a communicable disease that is a virulent disease to place himself forthwith under the care and treatment of a physician;
- (h) requiring the person to whom the order is directed to conduct himself in such a manner as not to expose another person to infection.

(5) An order under this section may be directed to a person, Person directed

- (a) who resides or is present;
- (b) who owns or is the occupier of any premises;
- (c) who owns or is in charge of any thing; or
- (d) who is engaged in or administers an enterprise or activity,

in the health unit served by the medical officer of health.

(6) In an order under this section, a medical officer of health, Additional contents of order

- (a) may specify that a report will not be accepted as complying with the order unless it is a report by a physician specified or approved by the medical officer of health;
- (b) may specify the period of time within which the report mentioned in this subsection must be delivered to the medical officer of health.

(7) An order under this section is not effective unless the reasons for the order are set out in the order. Reasons for order

**23.** Where an order by a medical officer of health in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or upon any other person who has the responsibilities of a parent in relation to the person under sixteen years of age, the parent or other person shall ensure that the order is complied with. Order by M.O.H. re person under sixteen

Directions by  
M.O.H.

**24.**—(1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health.

When  
M.O.H. may  
give  
directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a communicable disease exists in the health unit and the person to whom an order is or would be directed under section 20,

- (a) has refused to or is not complying with the order;
- (b) is not likely to comply with the order promptly;
- (c) cannot be readily identified or located and as a result the order would not be carried out promptly; or
- (d) requests the assistance of the medical officer of health in eliminating or decreasing the risk to health presented by the communicable disease.

Contents of  
directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or who are the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the risk to health presented by the communicable disease.

Idem

(4) Directions under this section may include, but are not limited to,

- (a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a communicable disease or of an order made under this Act, or both;
- (b) requiring the cleaning or disinfecting, or both, of any thing or any premises specified in the directions;
- (c) requiring the destruction of any thing specified in the directions.

Recovery of  
expenses

(5) The expenses incurred by a board of health in carrying out directions given by a medical officer of health in respect of a communicable disease may be recovered with costs by the board of health from the person to whom an order is or would be directed under section 22 in respect of the communicable disease by action in a court of competent jurisdiction.



**25.** A physician or a person registered under Part II, IV, V or VI of the *Health Disciplines Act* to practise a health discipline or a person registered as a drugless practitioner under the *Drugless Practitioners Act* who, while providing professional services to a person who is not a patient in or an out-patient of a hospital, forms the opinion that the person has or may have a reportable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Duty to report disease  
R.S.O. 1980, cc. 196, 127

**26.** A physician who, while providing professional services to a person, forms the opinion that the person is or may be infected with an agent of a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the professional services are provided.

Carrier of disease

**27.—**(1) The administrator of a hospital shall report to the medical officer of health of the health unit in which the hospital is located if an entry in the records of the hospital in respect of a patient in or an out-patient of the hospital states that the patient or out-patient has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of hospital administrator to report re disease

(2) The superintendent of an institution shall report to the medical officer of health of the health unit in which the institution is located if an entry in the records of the institution in respect of a person lodged in the institution states that the person has or may have a reportable disease or is or may be infected with an agent of a communicable disease.

Duty of superintendent of institution to report re disease

(3) The administrator or the superintendent shall report to the medical officer of health as soon as possible after the entry is made in the records of the hospital or institution, as the case may be.

When report to be given

**28.** The principal of a school who is of the opinion that a pupil in the school has or may have a communicable disease shall, as soon as possible after forming the opinion, report thereon to the medical officer of health of the health unit in which the school is located.

Duty of school principal to report disease

**29.—**(1) The operator of a laboratory shall report to the medical officer of health of the health unit in which the laboratory is located each case of a positive laboratory finding in respect of a reportable disease, as soon as possible after the making of the finding.

Report by operator

Contents and  
time of  
report

(2) A report under this section shall state the laboratory findings and shall be made within the time prescribed by the regulations.

Interpre-  
tation  
R.S.O. 1980,  
c. 409

(3) In this section "laboratory" has the same meaning as in section 59 of the *Laboratory and Specimen Collection Centre Licensing Act*.

Duty to  
report death  
R.S.O. 1980,  
c. 524

**30.** A physician who signs a medical certificate of death in the form prescribed by the regulations under the *Vital Statistics Act* where the cause of death was a reportable disease or a reportable disease was a contributing cause of death shall, as soon as possible after signing the certificate, report thereon to the medical officer of health of the health unit in which the death occurred.

Reports by  
M.O.H. re  
diseases

**31.** Every medical officer of health shall report to the Ministry in respect of reportable diseases and in respect of deaths from such diseases that occur in the health unit served by the medical officer of health.

Communi-  
cation  
between  
medical  
officers of  
health

**32.—(1)** A medical officer of health may transmit to another medical officer of health or to the proper public health official in another jurisdiction any information in respect of a person in relation to whom a report in respect of a reportable disease has been made under this Act.

Transmittal  
of report

(2) Where the person in respect of whom a report is made under this Part to a medical officer of health does not reside in the health unit served by the medical officer of health, the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Communi-  
cable  
diseases of  
the eyes

**33.** Every physician, public health nurse or other health care professional person attending at the birth of a child shall ensure that the requirements prescribed by the regulations in respect of communicable diseases of the eyes of the new-born child are complied with.

Physician to  
report refusal  
or neglect of  
treatment

**34.—(1)** Every physician shall report to the medical officer of health the name and residence address of any person who is under the care and treatment of the physician in respect of a communicable disease and who refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the physician.

Report to be  
made to  
M.O.H.

(2) A report under subsection (1) shall be made to the medical officer of health serving the health unit in which the physician provided the care and treatment.

(3) Where the person does not reside in the health unit served by the medical officer of health mentioned in subsection (2), the medical officer of health shall transmit the report to the medical officer of health serving the health unit in which the person resides.

Transmittal  
to M.O.H.  
where person  
resides

(4) A physician who makes a report under subsection (1) shall report to the medical officer of health at such times as are prescribed by the regulations any additional information prescribed by the regulations.

Additional  
information

**35.**—(1) Upon application by a medical officer of health, a provincial offences court, in the circumstances specified in subsection (2), may make an order in the terms specified in subsection (3).

Order by  
provincial  
offences  
court

(2) An order may be made under subsection (3) where a person has failed to comply with an order by a medical officer of health in respect of a communicable disease that is a virulent disease,

When court  
may make  
order

- (a) that the person isolate himself and remain in isolation from other persons;
- (b) that the person submit to an examination by a physician;
- (c) that the person place himself under the care and treatment of a physician; or
- (d) that the person conduct himself in such a manner as not to expose another person to infection.

(3) In an order under this section, a provincial offences court may order that the person who has failed to comply with the order of the medical officer of health,

Contents of  
order

- (a) be taken into custody and be admitted to and detained in a hospital named in the order;
- (b) be examined by a physician to ascertain whether or not the person is infected with an agent of a virulent disease; and
- (c) if found on examination to be infected with an agent of a virulent disease, be treated for the disease.

(4) A court shall not name a hospital in an order under this section unless the court is satisfied that the hospital is able to

Capability of  
hospital



provide detention, care and treatment for the person who is the subject of the order.

Delivery to  
hospital

(5) An order under this section is authority for any person,

- (a) to locate and apprehend the person who is the subject of the order; and
- (b) to deliver the person who is the subject of the order to the hospital named in the order.

Police  
assistance

(6) An order under this section may be directed to a police force that has jurisdiction in the area where the person who is the subject of the order may be located, and the police force shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

Care and  
treatment

(7) An order under this section is authority to detain the person who is the subject of the order in the hospital named in the order and to care for and examine the person and to treat the person for the virulent disease in accordance with generally accepted medical practice for a period of not more than four months from and including the day that the order was issued.

Physician  
responsible

(8) The person authorized by the by-laws of the hospital shall designate a physician to have responsibility for the treatment of the person named in the order or, where the by-laws do not provide the authorization, the administrator of the hospital or a person delegated by the administrator shall designate a physician to have responsibility for the person named in the order.

Reports

(9) The physician responsible for treating the person in the hospital shall report in respect of the treatment and the condition of the person to the medical officer of health serving the health unit in which the hospital is located.

Idem

(10) The physician shall report in the manner, at the times and with the information specified by the medical officer of health and the medical officer of health may specify the manner and times of reporting and the information that shall be reported.

Order to  
continue  
detention  
and  
treatment

(11) Upon application by the medical officer of health serving the health unit in which the hospital is located, a provincial offences court that is satisfied,

- (a) that the person continues to be infected with an agent of a virulent disease; and

- (b) that the discharge of the person from the hospital would present a significant risk to the health of the public,

by order may extend the period of detention and treatment for not more than four months, and upon further applications by the medical officer of health the court may extend the period of detention and treatment for further periods each of which shall not be for more than four months.

(12) A person detained in accordance with an order under this section shall be released from detention and discharged from the hospital upon the certificate of the medical officer of health serving the health unit in which the hospital is located.

Release and  
discharge  
from hospital

(13) The medical officer of health shall inform himself as to the treatment and condition of the person and shall issue his certificate authorizing the release and discharge of the person as soon as the medical officer of health is of the opinion that the person is no longer infected with an agent of the virulent disease or that the release and discharge of the person will not present a significant risk to the health of members of the public.

Certificate of  
M.O.H.

(14) An application mentioned in subsection (1) or (11) shall be heard in private, but, if the person in respect of whom the application is made requests otherwise by a notice filed with the clerk of the court before the day of the hearing, the court shall conduct the hearing in public except where,

Hearing of  
application

- (a) matters involving public security may be disclosed;  
or

- (b) the possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public.

(15) An application under this section applies to stay a proceeding before or an appeal from a decision or order of the Board in respect of the same matter until the application is disposed of by the provincial offences court and where the provincial offences court makes an order under this section, no person shall commence or continue a proceeding before or an appeal from a decision or order of the Board in respect of the same matter.

Effect on  
proceeding  
before Board

(16) In subsections (1) to (15), "provincial offences court" and "court" mean a provincial offences court presided over by a provincial judge.

Interpre-  
tation

Appeal

R.S.O. 1980,  
c. 400

(17) Any party to the proceedings before the provincial offences court under subsection (1) or (11) may appeal from its decision or order, in accordance with the rules under the *Provincial Offences Act* for appeals from the decision of a provincial judge, to the county or district court of the county or district in which the adjudication was made.

Stay

(18) The filing of a notice of appeal does not apply to stay the decision or order appealed from unless a judge of the court to which the appeal is taken so orders.

Appeal to  
Court of  
Appeal

(19) Any party to the proceedings may appeal from the judgment of the county or district court to the Court of Appeal, with leave of a justice of appeal on special grounds, upon any question of law alone in accordance with the rules under the *Provincial Offences Act* for appeals to the Court of Appeal.

Grounds for  
leave

(20) No leave for appeal shall be granted under subsection (19) unless the justice of appeal considers that in the particular circumstances of the case it is essential in the public interest or for the due administration of justice that leave be granted.

Where  
person  
withdraws  
from care  
and  
treatment

**36.—**(1) Where a medical officer of health has made an order in respect of a communicable disease that is a virulent disease requiring a person to place himself under the care and treatment of a physician or to take other action specified in the order and the person withdraws from the care and treatment or fails to continue the specified action, section 35 applies with necessary modifications and for the purpose, the person shall be deemed to have failed to comply with an order of the medical officer of health.

Failure to  
comply with  
isolation  
order

(2) Where a person who is infected with an agent of a communicable disease has failed to comply with an order by a medical officer of health that the person isolate himself and remain in isolation from other persons, section 35 applies with necessary modifications.

Examination  
of person  
under  
detention

**37.—**(1) A physician who provides medical services in a correctional institution, a training school, a lock-up or an observation and detention home and who is of the opinion that a person detained therein is infected or may be infected with an agent of a communicable disease shall notify forthwith the medical officer of health of the health unit in which the institution is located.

Order by  
M.O.H. re  
person under  
detention

(2) A medical officer of health by order may require the superintendent of a correctional institution, a training school, a lock-up or an observation and detention home located in the health unit served by the medical officer of health to take such

action as is specified in the order to prevent the infection of others by a person who is detained in the correctional institution, training school, lock-up or observation and detention home and who has been examined and found to be infected with an agent of a communicable disease.

(3) In this section,

Interpre-  
tation

- (a) “correctional institution” has the same meaning as in the *Ministry of Correctional Services Act*; R.S.O. 1980, c. 275
- (b) “lock-up” has the same meaning as in section 206 of the *Municipal Act*; R.S.O. 1980, c. 302
- (c) “observation and detention home” has the same meaning as in the *Provincial Courts Act*; R.S.O. 1980, c. 398
- (d) “training school” has the same meaning as in the *Training Schools Act*. R.S.O. 1980, c. 508

**38.**—(1) No person shall disclose to any other person the name of or any other information that will or is likely to identify a person in respect of whom an application, order, certificate or report is made in respect of a communicable disease, a reportable disease or a virulent disease.

Confiden-  
tiality

(2) Subsection (1) does not apply,

Exceptions

- (a) in respect of an application by a medical officer of health to a provincial offences court that is heard in public at the request of the person who is the subject of the application;
- (b) where the disclosure is made with the consent of the person in respect of whom the application, order, certificate or report is made;
- (c) where the disclosure is made for the purposes of public health administration;
- (d) in connection with the administration of or a proceeding under this Act, the *Health Disciplines Act*, the *Public Hospitals Act*, the *Health Insurance Act*, the *Medical Care Act* (Canada) or the *Criminal Code* (Canada), or regulations made thereunder; or R.S.O. 1980, cc. 196, 410, 197  
R.S.C. 1970, cc. M-8, C-34
- (e) to prevent the reporting of information under section 49 of the *Child Welfare Act* in respect of the abuse or the suspected abuse of a child. R.S.O. 1980, c. 66



Supply of  
drugs, etc.,  
by  
unqualified  
person  
prohibited

**39.**—(1) No person other than a physician shall attend upon, prescribe for or supply or offer to supply a drug, medicine, appliance or treatment to or for another person for the purpose of alleviating or curing a sexually transmitted disease.

Exception re  
pharmacist  
R.S.O. 1980,  
c. 196

(2) Subsection (1) does not apply to a pharmacist licensed under Part VI of the *Health Disciplines Act* who dispenses to a person upon a written prescription signed by a physician or who sells to a person a drug, medicine or appliance.

## PART V

### RIGHTS OF ENTRY AND APPEALS FROM ORDERS

Interpreta-  
tion, persons

**40.**—(1) The persons referred to in subsections (3) to (5) and (8), (10) and (11) are the following:

1. An inspector appointed by the Minister.
2. A medical officer of health.
3. A public health inspector.
4. A person acting under a direction given by a medical officer of health.

Interpre-  
tation,  
purposes

(2) The purposes mentioned in subsections (3) to (5) and (11) are the following:

1. The purpose of this Act.
2. The enforcement of any section of this Act or the regulations.
3. The exercise of a power or the carrying out of a duty under this Act or the regulations.
4. The carrying out of a direction given under this Act.

Entry

(3) A person mentioned in subsection (1) may enter and have access to, through and over any premises for a purpose mentioned in subsection (2).

Examinations

(4) A person mentioned in subsection (1) may make examinations, investigations, tests and inquiries for a purpose mentioned in subsection (2).

(5) A person mentioned in subsection (1) may make, take and remove or require the making, taking and removal of copies, samples or extracts related to an examination, investigation, test or inquiry for a purpose mentioned in subsection (2). Samples or extracts

(6) The authority under subsections (3) to (5) shall be exercised only at reasonable times. Reasonable times

(7) Subsection (3) is not authority to enter a private residence without the consent of the occupier. Private residence

(8) A person mentioned in subsection (1) may require an operator of a food premise to cease the operation of or to dismantle, or both, any equipment on or in the food premise, for the purpose of an examination, investigation, test or inquiry. Food premise

(9) An operator of a food premise shall comply promptly with a requirement under subsection (8). Compliance with requirement

(10) A copy of any written or recorded material related to an examination, investigation, test or inquiry and purporting to be certified by a person mentioned in subsection (1) is admissible in evidence in any action, proceeding or prosecution as proof, in the absence of evidence to the contrary, of the original. Copies

(11) If an occupier of premises, Application for warrant

- (a) denies entry or access to, through or over the premises to a person mentioned in subsection (1);
- (b) instructs a person mentioned in subsection (1) to leave the premises;
- (c) obstructs a person mentioned in subsection (1) who is acting for a purpose mentioned in subsection (2);
- (d) refuses to comply with a request for the production of any thing or any plant or animal the production of which is requested for the purpose of an examination, investigation, test or inquiry or for a purpose mentioned in subsection (2),

a person mentioned in subsection (1) may apply to a justice of the peace for a warrant under section 42.

**41.—**(1) No person shall hinder or obstruct an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction of a med- Obstruction

ical officer of health lawfully carrying out a power, duty or direction under this Act.

Private  
residence

(2) A refusal of consent to enter a private residence is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1).

Warrant by  
justice of the  
peace

**42.**—(1) Where a justice of the peace is satisfied on evidence upon oath,

- (a) that there is reasonable and probable ground for believing that it is necessary,
  - (i) to enter and have access to, through and over any premises,
  - (ii) to make examinations, investigations, tests and inquiries, and
  - (iii) to make, take and remove samples, copies or extracts related to an examination, investigation, test or inquiry,

or to do any of such things, for the purpose of this Act, the enforcement of any section of this Act or the regulations, the exercise of a power or the carrying out of a duty under this Act or the regulations or the carrying out of a direction given under this Act; and

- (b) that an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person acting under a direction given by a medical officer of health,
  - (i) has been denied entry to the premises,
  - (ii) has been instructed to leave the premises,
  - (iii) has been obstructed, or
  - (iv) has been refused production of any thing or any plant or animal related to an examination, investigation, test or inquiry,

by the occupier of the premises,

the justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector appointed by the Minister, a medical officer of health, a public health



inspector and any person who is acting under a direction given by a medical officer of health, or any of them, to act as mentioned in clause (a) in respect of the premises specified in the warrant, by force if necessary, together with such police officer or officers as they call upon to assist them.

(2) A warrant issued under this section shall be executed at reasonable times as specified in the warrant. Execution of warrant

(3) A warrant issued under this section shall state the date on which it expires, which shall be a date not later than fifteen days after the warrant is issued. Expiry of warrant

(4) A justice of the peace may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises. Ex parte application

**43.**—(1) An order by a medical officer of health or a public health inspector under this Act shall inform the person to whom it is directed that the person is entitled to a hearing by the Board if he mails or delivers to the medical officer of health or public health inspector, as the case requires, and to the Board, within fifteen days after a copy of the order is served on him, notice in writing requiring a hearing and he may also require such a hearing. Notice of right to hearing

(2) An oral order or an order directed to a person described but not named in the order need not contain the information specified in subsection (1) but a person to whom the order is directed may require a hearing by the Board by giving the notices specified in subsection (1) within fifteen days after the day the person first knows or ought to know the contents of the order. Oral order

(3) Notwithstanding that a hearing is required in accordance with this Part, an order under this Act takes effect, Effect of hearing

(a) when it is served on the person to whom it is directed; or

(b) in the case of an oral order or an order directed to a person described but not named in the order, when the person to whom it is directed first knows or ought to know the contents of the order,

but the Board, upon application with notice, may grant a stay until the proceedings before the Board are disposed of.

(4) Where the person to whom an order is directed requires a hearing by the Board in accordance with subsection (1) or (2), Powers of Board

the Board shall appoint a time and place for and hold the hearing and the Board may by order confirm, alter or rescind the order and for such purposes the Board may substitute its findings for that of the medical officer of health or public health inspector who made the order.

Time for  
hearing

(5) The Board shall hold a hearing under this section within fifteen days after receipt by the Board of the notice in writing requiring the hearing and the Board may, from time to time, at the request or with the consent of the person requiring the hearing, extend the time for holding the hearing for such period or periods of time as the Board considers just.

Extension of  
time for  
hearing

(6) The Board may extend the time for the giving of notice requiring a hearing under this section by the person to whom the order of the medical officer of health or public health inspector is directed either before or after the expiration of such time where it is satisfied that there are *prima facie* grounds for granting relief to the person following upon a hearing and that there are reasonable grounds for applying for the extension, and the Board may give such directions as it considers proper consequent upon the extension.

Parties

**44.—**(1) The medical officer of health or public health inspector who made the order, the person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board.

Examination  
of  
documentary  
evidence

(2) Any party to the proceedings before the Board shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not  
to have taken  
part in  
investigation,  
etc.

(3) Members of the Board holding a hearing shall not have taken part before the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an advisor independent from the parties and in such case the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Recording of  
evidence

(4) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

(5) No member of the Board shall participate in a decision of the Board following upon a hearing unless he was present throughout the hearing and heard the evidence and argument of the parties.

Only members at hearing to participate in decision

(6) Documents and things put in evidence at a hearing shall, upon the request of the person who produced them, be released to him by the Board within a reasonable time after the matter in issue has been finally determined.

Release of documentary evidence

**45.**—(1) Any party to the proceedings before the Board may appeal from its decision or order to the Divisional Court in accordance with the rules of court.

Appeal to court

(2) Where an appeal is taken under subsection (1) in respect of an order that was stayed by the Board, a judge of the High Court upon application may grant a further stay until the appeal is disposed of.

Stay of order

(3) Where any party appeals from a decision or order of the Board, the Board shall forthwith file in the Supreme Court the record of the proceedings before it in which the decision was made, which, together with the transcript of evidence if it is not part of the Board's record, shall constitute the record in the appeal.

Record to be filed in court

(4) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Minister entitled to be heard

(5) An appeal under this section may be made on questions of law or fact or both and the court may confirm, alter or rescind the decision of the Board and may exercise all powers of the Board to confirm, alter or rescind the order as the court considers proper, or the court may refer the matter back to the Board for rehearing, in whole or in part, in accordance with such directions as the court considers proper.

Powers of court on appeal

**46.**—(1) The Health Protection Appeal Board is established and shall be composed of not fewer than five members appointed by the Lieutenant Governor in Council.

Health Protection Appeal Board

(2) The Lieutenant Governor in Council shall designate a chairman and one or more vice-chairmen from among the members of the Board.

Chairman and vice-chairmen

(3) If the chairman is absent or unable to act or if there is a vacancy in the office of chairman, a vice-chairman shall act as and have all the powers of the chairman.

Vacancy

Terms	(4) The members of the Board shall be appointed for such terms as may be determined by the Lieutenant Governor in Council and may be reappointed for further terms.
Remuneration	(5) The members of the Board shall be paid such remuneration and expenses as are determined by the Lieutenant Governor in Council.
Quorum	(6) Three members of the Board constitute a quorum.
Sittings	(7) The chairman of the Board may from time to time assign the members of the Board to its various sittings and may change any such assignment.
Practice and procedure	(8) The Board may determine its own practice and procedure in relation to a hearing.
Decision	(9) The Board shall give a copy of its decision, together with written reasons therefor, to the parties to the proceedings.
Hearings to be public, exceptions	(10) A hearing by the Board shall be open to the public except where the Board is of the opinion that matters may be disclosed at the hearing that are of such a nature, having regard to the circumstances, that the desirability of avoiding disclosure thereof in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public, in which case the Board shall hold the hearing, or the part of the hearing concerning such matters, in private.

## PART VI

### HEALTH UNITS AND BOARDS OF HEALTH

Boards of health	<b>47.</b> There shall be a board of health for each health unit.
Composition of board of health	<b>48.—(1)</b> A board of health is composed of the members appointed to the board under this Act and the regulations.
Municipal members	(2) There shall be not fewer than three and not more than thirteen municipal members of each board of health.
Appointments by Lieutenant Governor in Council	(3) The Lieutenant Governor in Council may appoint one or more persons as members of a board of health, but the number of members so appointed shall be less than the number of municipal members of the board of health.
Remuneration	(4) A board of health shall pay remuneration to each member of the board of health on a daily basis and all members shall be paid at the same rate.



(5) A board of health shall pay the reasonable and actual expenses of each member of the board of health.

(6) The rate of the remuneration paid by a board of health to a member of the board of health shall not exceed the highest rate of remuneration of a member of a standing committee of a municipality within the health unit served by the board of health, but where no remuneration is paid to members of such standing committees the rate shall not exceed the rate fixed by the Minister and the Minister has power to fix the rate.

(7) The term of office of a municipal member of a board of health continues during the pleasure of the council that appointed the municipal member but, unless ended sooner, ends with the ending of the term of office of the council.

(8) The seat of a municipal member of a board of health becomes vacant for the same reasons that the seat of a member of council becomes vacant under section 39 of the *Municipal Act*.

(9) Subsections (1) to (8) do not apply to,

- (a) the board of health under the *County of Oxford Act*;
- (b) a board of health under an Act establishing or continuing a regional municipality; or
- (c) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health.

(10) Subsections (4) to (6) apply notwithstanding sections 240 to 245 of the *Municipal Act* (which relate to remuneration and expenses of members of local boards).

(11) Subsections (4) and (5) do not authorize payment of remuneration or expenses to a member of a board of health, other than the chairman, who is a member of the council of a municipality and is paid annual remuneration or expenses, as the case requires, by the municipality.

**49.—**(1) A board of health for a health unit and the council of the band on a reserve within the health unit may enter into an agreement in writing under which,

- (a) the board agrees to provide health programs and services to the members of the band; and

- (b) the council of the band agrees to accept the responsibilities of the council of a municipality within the health unit.

Appointment  
of member  
by council of  
band

- (2) The council of the band that has entered into the agreement has the right to appoint a member of the band to be one of the members of the board of health for the health unit.

Joint  
appointment

- (3) The councils of the bands of two or more bands that have entered into agreements under subsection (1) have the right to jointly appoint a person to be one of the members of the board of health for the health unit instead of each appointing a member under subsection (2).

Term

- (4) An appointment under this section may be for one, two or three years.

Interpre-  
tation  
R.S.C. 1970,  
c. I-6

- (5) In this section, "band", "council of the band" and "reserve" have the same meanings as in the *Indian Act* (Canada).

Term of  
office

- 50.**—(1) A member of a board of health appointed by the Lieutenant Governor in Council may be appointed for a term of one, two or three years.

Vacancy

- (2) Where a vacancy occurs in a board of health by the death, disqualification, resignation or removal of a member, the person or body that appointed the member shall appoint a person forthwith to fill the vacancy for the remainder of the term of the member.

Disquali-  
fication

- (3) No person whose services are employed by a board of health is qualified to be a member of the board of health.

Board to be  
corporation

- 51.**—(1) Every board of health is a corporation without share capital.

Application  
of  
R.S.O. 1980,  
cc. 95, 96

- (2) The *Corporations Act* and the *Corporations Information Act* do not apply to a board of health.

Real  
property

- (3) A board of health may acquire and hold real property for the purpose of carrying out the functions of the board and may sell, exchange, lease, mortgage or otherwise charge or dispose of real property owned by it.

Consents  
required

- (4) Subsection (3) does not apply unless the board of health has first obtained the consent of the councils of the majority of the municipalities within the health unit served by the board of health and has obtained the consent of the Minister.

**52.** The name of each board of health shall be the “Board of Health for the .....  
Health Unit”.  
*(inserting the name of the health unit)*

Name of board

**53.** A majority of the members of a board of health constitutes a quorum of the board.

Quorum

**54.** Sections 51 to 53 and 55 to 58 do not apply to a regional corporation that, under the Act establishing or continuing the regional municipality, has the powers and rights and is subject to the duties of a local board of health or of a board of health.

Application of ss. 51-53, 55-58

- 55.—**(1) A board of health shall pass by-laws respecting,
- (a) the management of its property;
  - (b) banking and finance;
  - (c) the calling of and proceedings at meetings; and
  - (d) the appointment of an auditor.

By-laws

- (2) A board of health may pass by-laws respecting,
- (a) the appointment, duties and removal of officers (other than the medical officer of health or an associate medical officer of health) and employees, and the remuneration, pensions and other benefits of officers and employees; and
  - (b) any other matter necessary or advisable for the management of the affairs of the board of health.

Idem

**56.—**(1) A board of health shall hold its first meeting of each year not later than the 1st day of February.

First meeting

(2) At the first meeting of a board of health in each year, the members of the board shall elect one of the members to be chairman and one to be vice-chairman of the board for the year.

Chairman

**57.** A board of health shall keep or cause to be kept minutes of its proceedings and the text of the by-laws and resolutions passed by it.

Minutes

- 58.—**(1) A board of health shall keep or cause to be kept,
- (a) books, records and accounts of its financial affairs;

Financial records



- (b) the invoices, receipts and other documents in its possession that relate to the financial affairs of the board.

Annual  
financial  
statements

(2) A board of health shall cause to be prepared statements of its financial affairs in each year including but not limited to,

- (a) an annual statement of income and expenses;
- (b) an annual statement of assets and liabilities; and
- (c) an annual estimate of expenses for the next year.

Retention of  
records

(3) A board of health need not keep any records, statements, minutes, accounts or other materials beyond the period of time prescribed by the regulations.

Certain  
boards of  
health in  
Metropolitan  
Toronto

**59.—**(1) With respect to the board of health for the health unit related to each municipality specified in subsection (2),

- (a) the council of the municipality shall stand in the place of and has the powers and is subject to the duties of the board of health in respect of the appointment, reappointment and dismissal of the medical officer of health and the associate medical officers of health of the board of health;
- (b) the council of the municipality shall provide to the board of health such employees of the municipality, including public health nurses, as the council of the municipality considers necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services; and
- (c) the council of the municipality shall appoint the auditor of the board of health.

Muni-  
cipalities  
specified

(2) The municipalities referred to in subsection (1) are the following:

1. The Borough of Etobicoke.
2. The City of North York.
3. The Borough of Scarborough.
4. The City of Toronto.

**60.** Every board of health shall superintend and ensure the carrying out of Parts II, III and IV and the regulations relating to those Parts in the health unit served by the board of health.

Duty of  
board of  
health

**61.** Every board of health,

Medical  
officer of  
health

- (a) shall appoint a full-time medical officer of health; and
- (b) may appoint one or more associate medical officers of health,

of the board of health.

**62.** A board of health shall not describe the position of a person whose services are employed by the board by a title that incorporates the title "medical officer of health" or the designation "M.O.H." or other designation representing the title unless the person is the medical officer of health, associate medical officer of health or acting medical officer of health of the board.

Use of title

**63.** No person is eligible for appointment as a medical officer of health or an associate medical officer of health unless,

Eligibility for  
appointment

- (a) he is a physician;
- (b) he possesses the qualifications and requirements prescribed by the regulations for the position; and
- (c) the Minister approves the proposed appointment.

**64.—(1)** Every medical officer of health and every associate medical officer of health of a board of health shall retire at the end of the month in which he attains the age of sixty-five years.

Retirement

(2) A board of health, with the approval of the Minister, may reappoint the medical officer of health or associate medical officer of health, as the case may be, for a period not exceeding one year at a time until the end of the month in which the medical officer of health or associate medical officer of health attains the age of seventy years.

Extension

**65.—(1)** A decision by a board of health to dismiss a medical officer of health or an associate medical officer of health from office is not effective unless,

Dismissal

- (a) the decision is carried by the vote of two-thirds of the members of the board; and
- (b) the Minister consents in writing to the dismissal.

Notice and  
attendance

(2) A board of health shall not vote on the dismissal of a medical officer of health unless the board has given to the medical officer of health,

- (a) reasonable written notice of the time, place and purpose of the meeting at which the dismissal is to be considered;
- (b) a written statement of the reason for the proposal to dismiss the medical officer of health; and
- (c) an opportunity to attend and to make representations to the board at the meeting.

Executive  
officer

**66.**—(1) The medical officer of health of a board of health is the executive officer of the board.

Direction of  
staff

(2) The employees of and the persons whose services are engaged by a board of health are subject to the direction of and are responsible to the medical officer of health of the board.

Management  
and adminis-  
tration

(3) The medical officer of health of a board of health is responsible to the board of health for the management and administration of the health programs and services and business affairs of the board.

Area of  
authority

(4) The authority of the medical officer of health of a board of health under this Act and the regulations is limited to the health unit served by the board of health.

Duties of  
associate  
M.O.H

**67.**—(1) The associate medical officer of health of a board of health, under the direction of the medical officer of health of the board, shall assist in the performance of the duties of the medical officer of health and, for the purpose, has all the powers of the medical officer of health.

Where  
M.O.H.  
absent or  
unable to act

(2) Where the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act, the associate medical officer of health of the board shall act as and has all the powers of the medical officer of health.

**68.—(1) Where,**Acting  
M.O.H.

- (a) the office of medical officer of health of a board of health is vacant or the medical officer of health is absent or unable to act; and
- (b) there is no associate medical officer of health of the board or the associate medical officer of health of the board is also absent or unable to act,

the board of health shall appoint forthwith a physician as acting medical officer of health.

(2) An acting medical officer of health of a board of health shall perform the duties and has authority to exercise the powers of the medical officer of health of the board.

Powers and  
duties

**69.** The medical officer of health of a board of health is entitled to notice of and to attend each meeting of the board and every committee of the board, but the board may require the medical officer of health to withdraw from any part of a meeting at which the board or a committee of the board intends to consider a matter related to the remuneration or the performance of the duties of the medical officer of health.

Attendance  
at meetings  
of boards

**70.—(1)** Every board of health shall engage the services of such persons, including public health nurses, as are considered necessary to carry out the functions of the board of health, including the duties of the board of health in respect of mandatory health programs and services.

Staff

(2) No board of health shall engage the services of any person in a professional, administrative or technical classification unless the person meets the qualifications and requirements prescribed by the regulations for the classification.

Qualifi-  
cations

(3) No board of health shall engage any person as a public health nurse unless the person is a registered nurse within the meaning of Part IV of the *Health Disciplines Act* and,

Public health  
nurseR.S.O. 1980,  
c. 196

- (a) has the public health nursing education prescribed by the regulations from a degree granting institution in Canada or at a degree granting institution outside Canada that is accepted as equivalent by such an institution in Canada; and
- (b) meets such additional qualifications and requirements as are prescribed by the regulations.



## Expenses

**71.**—(1) The expenses incurred by or on behalf of a board of health in the performance of the functions and duties of the board of health and the medical officer of health of the board of health under this and any other Act shall be borne and paid by the municipalities in the health unit served by the board of health in such proportion as is agreed upon or, in default of agreement, in such proportion as is prescribed by the regulations.

## Municipal authority

(2) The council of a municipality in a health unit has all the powers necessary to enter into and to carry out an agreement in respect of payment of the expenses of the board of health of the health unit or, in default of agreement, to pay the amount that is the responsibility of the municipality in accordance with the proportions prescribed by the regulations.

## Reports

**72.** Every board of health shall provide the Minister or the council of a municipality in the health unit served by the board of health with such information in respect of the board and the health unit served by the board at such times and in such form as the Minister or the council may require.

## Financial inspectors

**73.**—(1) The Minister may direct in writing financial inspectors appointed by the Minister to inspect, examine and audit books, accounts, reports and records maintained by or for boards of health and to report to the Minister with such information, in the form and manner and at the time or within the period of time specified by the Minister.

## Obstruction

(2) No person shall obstruct a financial inspector in the performance of his duties under this Act and the regulations.

## Information

(3) Every board of health shall furnish a financial inspector with such information regarding its affairs as the financial inspector from time to time requires.

## Access to records

(4) Every board of health or other person shall give a financial inspector access to and assistance in respect of all books, accounts, reports, records, files, minutes and other papers, things and property in any form maintained for or on account of or belonging to or in use by the board and necessary to the performance of the duties of the financial inspector.

Where Minister is of opinion that management or administration of affairs of board of health are inadequate

**74.**—(1) The Minister may give directions under subsection (2) where, having regard to the content of a report of an investigation or examination by the Chief Medical Officer of Health or a financial inspector as to the quality of the management or administration of the affairs of a board of health, the Minister is of the opinion that the quality of the management or administration of the affairs of the board of health is

adversely affecting or is likely to adversely affect the health of members of the public or the provision of health programs or services by the board of health.

(2) Under this section, the Minister may direct the Chief Medical Officer of Health to provide advice and guidance to a board of health and to the medical officer of health and the administrative and professional staffs of the board of health for the purpose of improving the quality of the management and administration of the affairs of the board of health.

Directions by Minister

(3) Where the Minister gives a direction under subsection (2) in respect of a board of health, it is the duty of the board of health and of the medical officer of health and the members of the administrative and professional staffs of the board of health to receive and consider the advice and guidance of the Chief Medical Officer of Health and of any person acting under the instructions of the Chief Medical Officer of Health.

Duty of board of health

(4) Where the Chief Medical Officer of Health, while acting under a direction by the Minister under subsection (2), requests in writing that the board of health or the medical officer of health or any member of the administrative or professional staff of the board of health do any act that they have authority to do and, in the opinion of the Chief Medical Officer of Health, they fail to do so, the Chief Medical Officer of Health may do the act on behalf of the board of health or the medical officer of health or the member of the administrative or professional staff of the board of health and the act is as effective as if done by the board of health or the medical officer of health or the member of the administrative or professional staff, as the case may be.

Action on behalf of board of health, etc.

(5) While a direction by the Minister under subsection (2) is in force in respect of a board of health, no act of the board of health or of the medical officer of health or the administrative professional staff of the board of health is valid unless approved in writing by the Chief Medical Officer of Health but this subsection does not apply to a professional health service provided to any person.

Action by board of health

(6) The Chief Medical Officer of Health and a person acting under the instructions of the Chief Medical Officer of Health have the same rights as the board of health, the medical officer of health and the members of the administrative and professional staffs of the board of health in respect of the documents, records (including medical records) and information of the board of health.

Right of access

Duration of directions (7) A direction by the Minister under subsection (2) is valid until rescinded by the Minister.

Grants **75.** The Minister may pay grants,  
  
(a) to boards of health;  
  
(b) to persons or organizations prescribed by the regulations,

for the purpose of this Act or for such purpose as is prescribed by the regulations.

Merger of health units **76.**—(1) Where two or more health units are merged, the boards of health of the merged health units are dissolved.

Assets and liabilities (2) Where two or more health units are merged, the assets owned by or under the management and control, as the case may be, and the liabilities of the boards of health of the merged health units are, without compensation, assets owned by or under the management and control and liabilities of the board of health of the new health unit.

Alteration of boundaries of health units (3) Where the boundaries of health units are altered so that an area formerly in one health unit is included in another health unit, the assets owned by or under the management and control and the liabilities of the board of health of the health unit of which the area was formerly a part and that relate to the area are, without compensation, assets owned by or under the management and control, as the case may be, and liabilities of the board of health of the health unit in which the area is included.

Order by Minister (4) Where the boards of health are unable to agree on a matter under subsection (3), the Minister may make an order determining the matter.

## PART VII

### ADMINISTRATION

Investigation re disease and mortality **77.**—(1) The Minister has power to make investigations respecting the causes of disease and mortality in any part of Ontario.

Direction to investigate (2) The Minister may direct an officer of the Ministry or any other person to investigate the causes of any disease or mortality in any part of Ontario.



(3) For the purposes of the investigation, the person directed by the Minister has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers of investigator

R.S.O. 1980, c. 411

**78.**—(1) The Minister may establish and maintain public health laboratory centres at such places and with such buildings, appliances and equipment as the Minister considers proper.

Public health laboratory centres

(2) The Minister may give direction from time to time to a public health laboratory centre as to its operation and the nature and extent of its work, and the public health laboratory centre shall comply with the direction.

Direction by Minister

**79.**—(1) The Minister may appoint in writing one or more employees of the Ministry or other persons as inspectors.

Appointment of inspectors

(2) An inspector shall make inspections of health units and in respect of boards of health, medical officers of health and other public health professionals to ascertain the extent of compliance with this Act and the regulations and the carrying out of the purpose of this Act.

Duty

(3) The Minister in an appointment may limit the duties or the authority or both of an inspector in such manner as the Minister considers necessary or advisable.

Limitation

(4) The Minister may require an inspector to act under the direction of or to report to the Minister, the Deputy Minister of Health, the Chief Medical Officer of Health or other officer of the Ministry.

Directions and reports

(5) The Minister shall issue to every inspector a certificate of appointment and every inspector, in the execution of his duties under this Act and the regulations, shall produce his certificate of appointment upon request.

Certificate of appointment

**80.**—(1) The Minister shall appoint in writing an employee of the Ministry as Chief Medical Officer of Health.

Chief Medical Officer of Health

(2) No person is qualified to be or to act as Chief Medical Officer of Health unless he is a physician of at least five years standing and possesses the qualifications prescribed by the regulations for the position of medical officer of health.

Qualifications

Duty of Chief  
M.O.H. re  
occupational  
and environ-  
mental health

(3) The Chief Medical Officer of Health shall keep himself informed in respect of matters related to occupational and environmental health.

Examinations  
of records by  
Chief  
Medical  
Officer of  
Health  
Copies

**81.**—(1) The Chief Medical Officer of Health has the right to examine all by-laws, minutes and records of a board of health.

(2) A board of health shall provide the Chief Medical Officer of Health with a copy of any by-law, minute or record requested by the Chief Medical Officer of Health.

Delegation

(3) The Chief Medical Officer of Health may delegate in writing his authority under subsections (1) and (2) to any person.

Where board  
of health not  
providing  
health  
program or  
service

**82.**—(1) Where the Minister is of the opinion that a board of health is not providing or ensuring the provision of a health program or service in accordance with sections 5 to 7 and the regulations and guidelines, the Minister may direct the Chief Medical Officer of Health to provide or ensure the provision of the health program or service.

Expenses

(2) The Minister may deduct from grants paid by the Minister to the board of health an amount equal to all or part of the expenses incurred by the Chief Medical Officer of Health in carrying out a direction under subsection (1).

Where  
situation of  
risk to health

**83.** Where the Minister is of the opinion that a situation exists anywhere in Ontario that constitutes or may constitute a risk to the health of persons, the Minister may direct the Chief Medical Officer of Health to investigate the situation and to take such action as the Chief Medical Officer of Health considers appropriate to prevent, eliminate and decrease the risk to health caused by the situation.

Powers of  
Chief  
Medical  
Officer of  
Health

**84.**—(1) For the purposes of sections 82 and 83, the Chief Medical Officer of Health,

(a) has, and may exercise anywhere in Ontario, the powers of a medical officer of health; and

(b) may direct a person whose services are engaged by a board of health to do, anywhere in Ontario (whether within or outside the health unit served by the board of health), any act,

(i) that the person has power to do under this Act,  
or

- (ii) that the medical officer of health for the health unit served by the board of health has authority to direct the person to do within the health unit.

(2) Where the Chief Medical Officer of Health gives a direction under subsection (1) to a person whose services are engaged by a board of health,

Authority  
and duty of  
person  
directed to  
act

- (a) the person has authority to act, anywhere in Ontario (whether within or outside the health unit served by the board of health), to the same extent as if the direction had been given by the medical officer of health of the board of health and the act had been done in the health unit; and
- (b) the person shall carry out the direction as soon as practicable.

**85.**—(1) The expenses or part of the expenses of carrying out a direction by the Chief Medical Officer of Health in respect of any duty or function of a board of health or a medical officer of health may be treated by the Minister either as a debt due by the board of health or as a debt due by the corporations of the municipalities in the health unit served by the board of health.

Expenses

(2) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the board of health, the Minister may deduct an amount equal to the amount of the expenses or the part of the expenses from amounts that would otherwise be payable by the Minister to the board of health.

Idem

(3) Where the Minister intends to treat the expenses or part of the expenses as a debt due by the corporations of the municipalities within the health unit served by the board of health, the Minister may certify to the treasurer of each of the municipalities the amount due by the municipality to the Crown in right of Ontario in respect of the expenses or the part of the expenses, and the treasurer shall pay to the Treasurer of Ontario the amount set out in the certificate.

Idem

**86.**—(1) The Minister, in the circumstances mentioned in subsection (2), by order may require the occupier of any premises to deliver possession of all or any specified part of the premises to the Minister to be used as a temporary isolation facility or as part of a temporary isolation facility.

Possession of  
premises for  
temporary  
isolation  
facility

(2) The Minister may make an order under subsection (1) where a medical officer of health certifies to the Minister,

Grounds for  
order

- (a) that there exists or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located; and
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease.

Delivery of  
possession

(3) An order under subsection (1) may require delivery of possession on the date specified in the order.

Hearing and  
submissions

(4) The Minister need not hold or afford to any person an opportunity for a hearing or afford to any person an opportunity to make submissions before making an order under subsection (1).

Warrant for  
possession

(5) Where a judge of the county or district court of the county or district in which the premises are located is satisfied on evidence upon oath,

- (a) that there has been or there is an immediate risk of an outbreak of a communicable disease in the area where the premises are located;
- (b) that the premises are needed for use as a temporary isolation facility or as part of a temporary isolation facility in respect of the communicable disease; and
- (c) that the occupier of the premises,
  - (i) has refused to deliver possession of the premises to the Minister in accordance with the Minister's order under subsection (1),
  - (ii) is not likely to comply with the Minister's order under subsection (1), or
  - (iii) cannot be readily identified or located and as a result the Minister's order under subsection (1) cannot be carried out promptly,

the judge may issue a warrant in the form prescribed by the regulations directing the sheriff of the county or district, or any other person whom the judge considers suitable, to put and maintain the Minister and any persons designated by the Minister in possession of the premises, by force if necessary.

Execution of  
warrant

(6) A warrant issued under this section shall be executed at reasonable times as specified in the warrant.



(7) A judge may receive and consider an application for a warrant under this section without notice to and in the absence of the owner or the occupier of the premises.

*Ex parte*  
application

(8) The Minister shall not continue the use of the premises as a temporary isolation facility or as part of a temporary isolation facility after the communicable disease ceases to present a significant risk to the health of persons in the area where the premises are located.

Termination  
of use of  
premises

(9) The occupier of the premises is entitled to compensation from the Crown in right of Ontario for the use and occupation of the premises and in the absence of agreement as to the compensation the Land Compensation Board under the *Expropriations Act*, upon application in accordance with the rules governing the practice and procedure of the Board, shall determine the compensation.

Compensation

R.S.O. 1980,  
c. 148

(10) Except in respect of proceedings before the Land Compensation Board in accordance with subsection (9), the *Expropriations Act* does not apply to proceedings under this section.

Application  
of R.S.O.  
1980, c. 148

**87.** The agency of the Province of Ontario known as Northern Ontario Public Health Service shall provide, in the parts of Ontario that are designated by the Minister and that are not in a health unit,

Northern  
Ontario  
Public Health  
Service

- (a) the health programs and services that a board of health is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals whose services may be employed by a board of health.

**88.—**(1) Where a municipality is not within a health unit, the Minister and the corporation of the municipality may enter into an agreement under which the Minister will ensure the provision in the municipality of,

Health  
services in  
isolated  
municipalities

- (a) the health programs and services that a board is required to provide under this Act and the regulations; and
- (b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and the other public health professionals

whose services may be employed by a board of health.

**Idem** (2) An agreement mentioned in subsection (1) may relate only to particular health programs or services or to particular functions and may specify the charges to be made for any or all of them.

**Repeal of ss. 87, 88** **89.**—(1) Sections 87 and 88 are repealed on a day to be named by proclamation of the Lieutenant Governor.

**Application of subs. (1)** (2) Subsection (1) does not apply until the day that each area in Ontario is within a health unit.

**Agreement with organization** **90.** The Minister may enter into an agreement with any organization in accordance with which the organization will provide, in the part of Ontario that is specified in the agreement and that is not in a health unit,

(a) the health programs and services that a board of health is required to provide under this Act and the regulations; and

(b) the services of persons qualified to perform the functions of a medical officer of health, public health inspectors and other public health professionals that may be employed by a board of health.

**Hearings** **91.** The Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector need not hold or afford to any person an opportunity for a hearing before making an order or giving directions under this Act.

**Appointment of public health professionals** **92.** The Minister may appoint a person to perform the duties and exercise the authority in a part of Ontario that is designated by the Minister and that is not within a health unit that may be performed and exercised in a health unit by a medical officer of health, a public health inspector, a public health nurse or any other public health professional whose services may be engaged by a board of health.

**Provincial analysts** **93.** The Lieutenant Governor in Council may appoint one or more provincial analysts for the purposes of this Act and every other Act in which a provincial analyst is mentioned.

**Protection from personal liability** **94.**—(1) No action or other proceeding for damages or otherwise shall be instituted against a member of a board of health, a medical officer of health, an associate medical officer of health of a board of health, an acting medical officer of health of a board of health or a public health inspector for any

act done in good faith in the execution or the intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

(2) Subsection (1) does not apply to prevent an application for judicial review or a proceeding that is specifically provided for in this Act. Exception

(3) Subsection (1) does not relieve a board of health from liability for damage caused by negligence of or action without authority by a person referred to in subsection (1), and a board of health is liable for such damage in the same manner as if subsection (1) had not been enacted. Board of health not relieved of liability

(4) No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with Part IV. Protection from liability for reports

## PART VIII

### REGULATIONS

**95.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing any matter referred to in this Act as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) classifying persons, organizations, premises, places, animals, plants and things, or any of them, for the purposes of the regulations;
- (d) prescribing standards and requirements in respect of any matter in relation to which regulations may be made under this Act and requiring compliance with such standards and requirements;
- (e) exempting any person, organization, premises, food, substance, thing, plant, animal other than man, solid, liquid, gas, heat, radiation or combination of any of them, or any class of any of them from any provision of this Act or the regulations and prescribing conditions that shall apply in respect of any such exemption.



Regulations  
relating to  
Part II

(2) The Lieutenant Governor in Council may make regulations relating to Part II, prescribing standards and requirements for health programs and services and requiring boards of health to comply with the standards and requirements or either of them.

Regulations  
relating to  
Part III

(3) The Lieutenant Governor in Council may make regulations relating to Part III,

- (a) in respect of any matter related to the health or safety of persons in, on or about public pools, and requiring owners and operators of public pools to comply with such regulations, including, but not limited to,
  - (i) governing the construction, alteration, repair, location, operation, maintenance and use, or prohibiting any of them, of such pools and related buildings, appurtenances and equipment,
  - (ii) requiring the installation and maintenance of safety equipment,
  - (iii) requiring the presence of lifeguards and other staff, and
  - (iv) prescribing standards and requirements in respect of lifeguards and staff and requiring compliance with such standards and requirements;
- (b) governing the construction, equipment, facilities (including sanitary facilities), operation and maintenance of food premises, and prescribing standards and requirements in respect thereof;
- (c) regulating, restricting or prohibiting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises, and prescribing standards and requirements in respect thereof;
- (d) prescribing chemical and microbiological standards for food and requiring compliance therewith;
- (e) prescribing standards and requirements in respect of persons who operate food premises and in respect of

persons who are employed on or in food premises and requiring compliance therewith;

- (f) governing and prohibiting the construction, equipment, facilities (including sanitary facilities), establishment, operation and maintenance of slaughter-houses; prescribing and requiring compliance with standards and requirements in respect of the foregoing and prohibiting the slaughter of animals in any place other than a slaughter-house;
- (g) governing and prohibiting the procurement, transportation, handling and sale of water by tank truck or other portable container for human consumption, and requiring the approval of a medical officer of health to the procurement, transportation, handling and sale of water by such means;
- (h) respecting the records that shall be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
- (i) governing and requiring the labelling, identification or coding of food and containers of food that is manufactured, processed, prepared, stored, handled, displayed, transported, sold or offered for sale on or in food premises or distributed from food premises and specifying the type of labelling, identification or coding and the information required on the labels, identification or coding;
- (j) regulating, restricting or prohibiting the construction, alteration, repair, location, operation, maintenance and use of food vending machines;
- (k) prescribing standards and requirements in respect of recreational camps and requiring owners and operators of recreational camps to comply with such standards and requirements;
- (l) prescribing standards and requirements in respect of lumbering camps, mining camps, railway construction works or other places where labour is employed in territory without municipal organization and requiring owners and operators of such camps, works or other places to comply with such standards and requirements.

Regulations  
relating to  
Part IV

(4) The Lieutenant Governor in Council may make regulations relating to Part IV,

- (a) governing the establishment, equipment, operation and maintenance of clinics for the examination and treatment of persons in respect of sexually transmitted diseases;
- (b) governing the handling, transportation and burial of bodies of persons who have died of a communicable disease or who had a communicable disease at the time of death;
- (c) requiring and governing the detention, isolation, handling, laboratory examination, taking of specimens from or destruction of any animal that has or may have a disease or a condition that may adversely affect the health of any person;
- (d) requiring the reporting of cases of animals that have or may have diseases that adversely affect the health of persons or that may adversely affect the health of any person, specifying diseases of animals that adversely affect the health of persons, specifying the classes of persons who shall make such reports and specifying the persons to whom such reports shall be made;
- (e) requiring and governing the immunization of domestic animals against any disease that may adversely affect the health of any person;
- (f) respecting the reporting of bites of persons by animals or contacts to persons that may result in human rabies, and requiring such reporting, specifying the persons or class of persons who must make such reports and requiring and governing the furnishing of additional information and the form and content of such reports and additional information;
- (g) requiring the payment of the costs incurred in complying with any action required under clause (c) and specifying by whom such costs shall be paid;
- (h) governing the handling and disposition of dead animals and specimens or products therefrom in the case of animal diseases communicable to man or conditions that may adversely affect the health of any person;

- (i) specifying additional persons who shall report the existence or the probable existence of reportable diseases or communicable diseases, and specifying the medical officers of health to whom such reports shall be made.

(5) The Lieutenant Governor in Council may make regulations relating to Part VI,

Regulations  
relating to  
Part VI

- (a) designating any area in Ontario as a health unit;
- (b) prescribing the names of health units;
- (c) altering the boundaries of or dissolving any health unit established or continued by or under this Act;
- (d) subject to Part VI, specifying for each board of health,
  - (i) the number of municipal members of the board,
  - (ii) by whom each of the municipal members of the board shall be appointed,
  - (iii) the area or place that each municipal member of the board is to represent,
  - (iv) the qualifications for appointment for each municipal member of the board,

but this clause does not apply in respect of,

- (v) the board of health under the *County of Oxford Act*, R.S.O. 1980,  
c. 365
  - (vi) a board of health under an Act establishing or continuing a regional municipality, or
  - (vii) a regional corporation that, under the Act establishing or continuing the regional corporation, has the powers, rights and duties of a local board of health or of a board of health;
- (e) assigning additional duties to inspectors or any class of them appointed by the Minister;
  - (f) specifying records that boards of health and persons appointed or whose services are engaged by boards of health shall compile, and governing the custody,

keeping, inspection and disclosure of information from such records, including, but not limited to, records in respect of,

- (i) the proceedings of boards of health,
- (ii) the text of by-laws and resolutions of boards of health,
- (iii) the financial and administrative affairs of boards of health,
- (iv) mandatory health programs and services,
- (v) other health programs and services,
- (vi) medical services and health services provided by persons appointed or whose services are engaged by boards of health;
- (g) authorizing boards of health to charge fees for specific services and prescribing the amounts of the fees;
- (h) prescribing the methods of calculating or the bases for determining the amounts of grants by the Minister to boards of health, persons and organizations and prescribing the manner and times of payment of such grants and prescribing conditions that shall apply in respect of such grants.

Regulations  
by Minister

**96.** The Minister may make regulations specifying diseases as communicable diseases, reportable diseases and virulent diseases for the purposes of this Act.

Scope of  
regulations

**97.—(1)** A regulation may be general or particular in its application, may be limited in its application to any class prescribed by the regulations and may be limited as to time or place or both.

Adoption of  
codes

**(2)** A regulation may adopt by reference, in whole or in part, with such changes as are specified in the regulation, any code, formula, standard or procedure, and may require compliance with any code, formula, standard or procedure so adopted.

Classes

**(3)** A class may be defined in the regulations with respect to any attribute, quality or characteristic or combination of them and may be defined to include any persons, places, premises, organizations, animals, plants or things whether or not of the



same type or with the same attributes, qualities or characteristics.

**98.** Except as otherwise provided in this Act, a report or notice required under this Act or the regulations shall be made in the form and manner, at or within the period of time and containing the information prescribed by the regulations.

Form, etc.,  
of reports or  
notices

## PART IX

### ENFORCEMENT

**99.**—(1) Any person who fails to obey an order made under this Act is guilty of an offence.

Offence,  
orders

(2) Any person who contravenes a requirement of Part IV to make a report in respect of a reportable disease or a communicable disease is guilty of an offence.

Offence,  
reports

(3) Any person who contravenes section 16, 17, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Offence,  
sections of  
Act

(4) Any person who contravenes a regulation is guilty of an offence.

Offence,  
regulations

**100.**—(1) Every person who is guilty of an offence under this Act is liable on conviction to a fine of not more than \$5,000 for every day or part of a day on which the offence occurs or continues.

Penalty

(2) Where a corporation is convicted of an offence under this Act, the maximum penalty that may be imposed for every day or part of a day on which the offence occurs or continues is \$25,000 and not as provided in subsection (1).

Corporation

(3) Where a corporation is convicted of an offence under this Act,

Directors,  
officers,  
employees  
and agents

(a) each director of the corporation; and

(b) each officer, employee or agent of the corporation who was in whole or in part responsible for the conduct of that part of the business of the corporation that gave rise to the offence,

is guilty of an offence unless he satisfies the court that he took all reasonable care to prevent the commission of the offence.

Proceedings  
to restrain  
contra-  
vention of  
order

**101.**—(1) Notwithstanding any other remedy or any penalty, the contravention by any person of an order made under this Act may be restrained by order of a judge of the Supreme Court or a local judge of the High Court upon application without notice by the person who made the order or by the Chief Medical Officer of Health or the Minister.

Proceedings  
to prohibit  
continuation  
or repetition  
of contra-  
vention

(2) Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or any penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity specified in the order that, in the opinion of the court, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Copy of  
order as  
evidence

**102.**—(1) A copy of an order purporting to be made by the Minister, the Chief Medical Officer of Health, a medical officer of health or a public health inspector is, without proof of the office or signature of the Minister, the Chief Medical Officer of Health, the medical officer of health or the public health inspector, as the case may be, receivable in evidence as proof in the absence of evidence to the contrary of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

Certificate as  
evidence

(2) A certificate as to the result of any test that purports to be signed by a provincial analyst is, without proof of the office or signature of the provincial analyst, receivable in evidence as proof in the absence of evidence to the contrary of the facts stated in the certificate for all purposes in any action, proceeding or prosecution.

Effect of  
compliance  
with order

**103.** A person who in good faith and in a reasonable manner, in complying or attempting to comply with an order under Part III, takes or refrains from taking any action shall not be convicted of an offence in respect of such taking or refraining from taking of action.

Furnishing  
false  
information

**104.** No person shall furnish false information knowingly to an inspector appointed by the Minister, a medical officer of health, a public health inspector or a person who is carrying out any power, duty or direction under this Act or is otherwise acting in the lawful performance of his duties under this Act.

Service

**105.**—(1) Any notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by ordinary mail addressed to



the person to whom it is to be given, served or delivered at his last known address.

(2) A notice, order or other document sent by ordinary mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the seventh day after the day of mailing, unless the person to whom it is sent establishes that, acting in good faith, he did not receive the notice, order or other document until a later date through absence, accident, illness or other cause beyond his control.

When service  
deemed  
made

## PART X

### TRANSITION AND REPEALS

**106.** Every health unit established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a health unit under this Act.

Health units  
R.S.O. 1980,  
c. 409

**107.** Every local board of health or board of health established by or under the *Public Health Act* and in existence immediately before the coming into force of this section is continued as a board of health under this Act.

Boards of  
health  
continued

**108.** The members of a board of health or a local board of health in office immediately before this Act comes into force shall continue in office until the expiration of the terms for which they were appointed or until the office otherwise becomes vacant.

Board  
member  
continued in  
office

**109.** The medical officers of health and associate medical officers of health of boards of health, local boards of health or municipalities in office immediately before this Act comes into force are continued in office, subject to the provisions of Part VI respecting retirement and dismissal.

Medical  
officers of  
health  
continued in  
office

**110.—(1)** The by-law in Schedule B to and any by-law passed under section 156 or 157 of the *Public Health Act* that is in force immediately before this Act comes into force shall remain in force, except in so far as it conflicts with this Act or the regulations, until revoked by the council or board where such by-law is in force, and for the purpose of enforcement such by-law shall be deemed to be a regulation.

By-laws  
continued

(2) Every board of health shall ensure compliance with the by-laws mentioned in subsection (1) within the health unit served by the board of health.

Compliance

Repeals

**111.**—(1) The *Public Health Act*, being chapter 409 of the Revised Statutes of Ontario, 1980, except the title thereto and sections 3, 4, 5, 59 to 75 and subsections 150 (2), (3) and (4), is repealed.

Idem

(2) The title to the *Public Health Act* is repealed and the following substituted therefor:

LABORATORY AND SPECIMEN COLLECTION CENTRE  
LICENSING ACT

Idem

(3) The following are repealed:

1. The *Sanatoria for Consumptives Act*, being chapter 463 of the Revised Statutes of Ontario, 1980.
2. The *Venereal Diseases Prevention Act*, being chapter 521 of the Revised Statutes of Ontario, 1980.
3. Section 2 of *The Borough of North York Act, 1977*, being chapter 95.
4. *The Borough of Etobicoke Act, 1980*, being chapter 92.

Commence-  
ment

**112.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**113.** The short title of this Act is the *Health Protection and Promotion Act, 1983*.

## BILL 139

Government Bill

2ND SESSION, 32ND LEGISLATURE, ONTARIO  
31 ELIZABETH II, 1982

LEGISLATIVE ASSEMBLY

2

**An Act to revise the Mechanics' Lien Act**

THE HON. R. MCMURTRY  
Attorney General



TORONTO

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## EXPLANATORY NOTES

In May 1981, the Attorney General's Advisory Committee on the Draft Construction Lien Act was established. It was composed of lawyers, expert in lien law, who were suggested by organizations representing workers, material suppliers, contractors, subcontractors, architects, engineers, commercial sureties, owners and other consumers of construction improvements, those who finance construction, municipalities, the Crown and the courts. On April 20, 1982, the Report of the Committee setting out suggested legislation and providing a clause by clause explanation was tabled in the Legislative Assembly and made available to the public. The Bill is substantially similar to the draft legislation set out in the Report.

Among the principal features of the Bill are the following:

1. A waiver of lien rights by a supplier of services or materials to an improvement is void (s. 4).
2. The trust provisions, intended to protect those who supply services or materials from the insolvency of those in their chain of payment, have been clarified and simplified. Two new trust obligations are imposed on owners. All amounts received by an owner after substantial performance of the contract is certified are impressed with a trust. Also, property received by an owner for the sale of a premises is impressed with a trust where the owner does not pay for the improvements (ss. 7, 9).
3. Anyone who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to a breach of trust by a corporation, is liable for the breach of trust (s. 13).
4. The confusion regarding whether there is a lien for interest is resolved. No lien for interest is allowed but persons may recover for interest on a personal judgment against the person who failed to pay his debts on time (s. 14).
5. A municipality that has a road dedicated to it and the road has been built at the municipality's request but not at its expense, will be liable to the extent of the holdback that should have been retained, to those who supply services and materials in relation to the road if there is default by the proper payer. Municipalities will be able to protect themselves by demanding a bond or other form of security from the proper payer (s. 17).
6. The interest of a joint or co-owner of premises who knows or reasonably ought to know of the making of an improvement is subject to the

lien for the improvement unless the contractor is given actual notice that the joint or co-owner assumes no responsibility (s. 18).

7. The amount of the holdback required to be retained by the payer on a contract or a subcontract is reduced from 15 per cent to 10 per cent of the price of services or materials as they are supplied (s. 22).
8. The Bill provides for two holdbacks. The first, or basic holdback, relates to the period prior to the time the contract is certified as substantially performed. The second, or holdback for finishing work, relates to the period between the time a contract is substantially performed and the time it is totally completed. This provision will permit early release of the basic holdback (s. 22).
9. Provisions for the expiry of lien rights are made consistent throughout the Bill and the expiry of lien rights provisions govern the right to release holdbacks.
10. The existing thirty-seven-day period following the supply of services or materials for claiming liens is increased to forty-five days (s. 31).
11. To permit release of holdbacks related to the period between the commencement of a contract for an improvement and the substantial performance of the contract, all lien rights for services and materials supplied during that period expire forty-five days after publication of the certificate of substantial performance of the contract in a construction trade newspaper. Publication provides certainty of time for release and certainty that any person can receive notice (s. 31).
12. Lien rights related to the basic holdback expire without limiting the right to claim a lien for the supply of services and materials related to the period between substantial performance of the contract and its completion (s. 31).
13. A set of rules is provided regarding the certification of substantial performance of a contract (s. 32).
14. Provision is made for the voluntary certification of the completion of a subcontract and provision made for the release of holdbacks related to a certified complete subcontract (s. 33).
15. The provisions for preserving, that is, temporarily continuing, a lien related to private property, municipal streets, railway rights-of-way, and Crown property are made clearer (s. 34).
16. A lien may be claimed under the Bill, only for the supply of services and materials to the time of the claim and, not, as at present, for work that is to be done. This provision is intended to reduce cases where exaggerated lien claims are made (s. 34).
17. A person who preserves a claim for lien in a grossly exaggerated amount, or where he knows that he does not have a lien, will be liable to any person who suffers damage as a result. Frivolous or vexatious claims will be discouraged (s. 35).
18. The concept of perfecting a lien by sheltering under the action of another claimant is codified (s. 36).
19. The right to information provision is designed to provide only that information that is relevant to a lien action without interfering with other business practices. A new right is provided to a workers' trust to

examine payroll accounts of an employer. The remedies for failure to provide information or access to information are made more effective (s. 39).

20. A right to cross-examine once on an affidavit verifying a lien claim is given to persons having an interest in the premises subject to the claim and to the contractor. This provision is designed to discourage claims for excessive amounts (s. 40).
21. Provision is made for the postponement of a lien claim to the interest of another. This will assist in continuing the flow of funds on a construction project (s. 43).
22. The provisions related to vacating the registration of a claim to lien have been clarified and are designed to avoid unnecessary delays in the flow of funds on a construction project (s. 44).
23. Defendants who do not file a statement of defence may have pleadings noted closed against them and, in that case, will be deemed to have admitted allegations of fact in the claim, be denied the opportunity to participate in the trial or other proceedings in respect of the claim and may have judgment given against them. The intent of this provision is to speed the resolution of lien actions (s. 56).
24. With consent of the court, a person may be added as a third party for the purpose of claiming contribution and indemnity. In appropriate circumstances this will avoid multiplicity of judicial proceedings (s. 58).
25. The Bill contains a provision for settlement meetings and provides for their binding effect (s. 63).
26. Although trust actions may not be joined with a lien action under the Bill, a person who believes he is in possession of trust funds may apply to the court for directions (s. 68).
27. The provisions regarding the appointment by the court of a trustee are expanded and clarified (s. 70).
28. The Bill provides a right to claim against a labour and materials payment bond to the beneficiaries of the bond (s. 71).
29. The holdbacks are secured by giving lien claimants priority to the extent of any deficiency in the holdback over building mortgages and mortgages registered subsequent to the commencement of the improvement (s. 80).
30. Section 52 of the *Mechanics' Lien Act*, which provides for liens for the repairers of personal property, is retained and the balance of the Act is repealed (s. 91).

BILL 139

1982

## An Act to revise the Mechanics' Lien Act

**H**ER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1.—(1) In this Act,

Interpre-  
tation

1. "action" means an action under Part VIII;
2. "construction trade newspaper" means a newspaper having circulation generally throughout Ontario, that is published no less frequently than on all days except Saturdays and holidays, and in which calls for tender on construction contracts are customarily published, and that is primarily devoted to the publication of matters of concern to the construction industry;
3. "contract" means the contract between the owner and the contractor, and includes any amendment to that contract;
4. "contractor" means a person contracting with or employed directly by the owner or his agent to supply services or materials in respect of any improvement;
5. "court" means the Supreme Court of Ontario;
6. "Crown" includes a Crown agency to which the *Crown Agency Act* applies; R.S.O. 1980,  
c. 106
7. "holdback" means the 10 per cent of the value of the services or materials supplied under a contract or sub-contract required to be withheld from payment by Part IV;
8. "improvement" means,
  - i. any alteration, addition or repair to, or

- ii. any construction, erection or installation on,  
any land, and includes the demolition or removal of any building, structure or works or part thereof, and "improved" has a corresponding meaning;
- 9. "interest in the premises" means an estate or interest of any nature, and includes a statutory right given or reserved to the Crown to enter any lands or premises belonging to any person or public authority for the purpose of doing any work, construction, repair or maintenance in, upon, through, over or under any lands or premises;
- 10. "land" includes any building, structure or works affixed to the land, or an appurtenance to any of them, but does not include the improvement;
- 11. "lien claimant" means a person having a preserved or perfected lien;
- 12. "materials" means every kind of movable property,
  - i. that becomes, or is intended to become, part of the improvement, or that is used directly in the making of the improvement, or that is used to facilitate directly the making of the improvement,
  - ii. that is equipment rented without an operator for use in the making of the improvement;
- 13. "mortgage" includes a charge and "mortgagee" includes a chargee;
- 14. "municipality" means a municipality as defined in the *Municipal Affairs Act* or a metropolitan, regional or district municipality, or a local board thereof;
- 15. "owner" means any person, including the Crown, having an interest in a premises at whose request and,
  - i. upon whose credit, or
  - ii. on whose behalf, or
  - iii. with whose privity or consent, or
  - iv. for whose direct benefit,
 an improvement is made to the premises;



16. "payer" means the owner, contractor or subcontractor who is liable to pay for the materials or services supplied in respect of any improvement under a contract or subcontract;
17. "payment certifier" means an architect, engineer or any other person upon whose certificate payments are made under a contract or subcontract;
18. "person having a lien" includes both a lien claimant and a person with an unpreserved lien;
19. "premises" includes,
  - i. the improvement,
  - ii. all materials supplied to the improvement, and
  - iii. the land occupied by the improvement, or enjoyed therewith, or the land upon or in respect of which the improvement was done or made;
20. "price" means the contract or subcontract price,
  - i. agreed upon between the parties, or
  - ii. where no specific price has been agreed upon between them, the actual value of the services or materials that have been supplied to the improvement under the contract or subcontract;
21. "services or materials" includes both services and materials;
22. "subcontract" means any agreement between the contractor and a subcontractor, or between two or more subcontractors, relating to the supply of services or materials to the improvement and includes any amendment to that agreement;
23. "subcontractor" means a person not contracting with or employed directly by the owner or his agent but who supplies services or materials to the improvement under an agreement with the contractor or under him with another subcontractor;
24. "supply of services" means any work done or service performed upon or in respect of an improvement, and includes,

- i. the rental of equipment with an operator, and
- ii. where the making of the planned improvement is not commenced, the supply of a design, plan, drawing or specification that in itself enhances the value of the owner's interest in the land,

and a corresponding expression has a corresponding meaning;

- 25. "wages" means the money earned by a worker for work done by time or as piece work, and includes all monetary supplementary benefits, whether provided for by statute, contract or collective bargaining agreement;
- 26. "worker" means a person employed for wages in any kind of labour;
- 27. "workers' trust fund" means any trust fund maintained in whole or in part on behalf of any worker on an improvement and into which any monetary supplementary benefit is payable as wages for work done by the worker in respect of the improvement;
- 28. "written notice of a lien" includes a lien claim and any written notice given by a lien claimant that,
  - i. identifies his payer and identifies the premises, and
  - ii. states that he has not been paid an amount that he is owed by his payer in respect of services and materials supplied by him to the improvement.

When  
materials  
supplied

(2) For the purposes of this Act, materials are supplied to an improvement when they are,

- (a) placed on the land on which the improvement is being made;
- (b) placed upon land designated by the owner or his agent that is in the immediate vicinity of the premises, but placing materials on the land so designated does not, of itself, make that land subject to a lien; or
- (c) in any event, incorporated into or used in making or facilitating directly the making of the improvement.

Idem

(3) A contractor or subcontractor to whom materials are supplied and who designates land under clause (2) (b) is deemed

to be the owner's agent for that purpose, unless the person supplying the materials has actual notice to the contrary.

**2.—**(1) For the purposes of this Act, a contract is substantially performed when the improvement to be made under that contract is, When contract substantially performed

(a) ready for use or is being used for the purposes intended; and

(b) capable of completion or, where there is a patent defect, correction, at a cost of not more than,

(i) 3 per cent of the first \$500,000 of the contract price,

(ii) 2 per cent of the next \$500,000 of the contract price, and

(iii) 1 per cent of the balance of the contract price.

(2) For the purposes of this Act, where the improvement or a substantial part thereof is ready for use or is being used for the purposes intended and the remainder of the improvement cannot be completed expeditiously for reasons beyond the control of the contractor or, where the owner and the contractor agree not to complete the improvement expeditiously, the price of the services or materials remaining to be supplied and required to complete the improvement shall be deducted from the contract price in determining substantial performance. Idem

## PART I

### GENERAL

**3.—**(1) Subject to section 16 (where lien does not attach to the premises), this Act binds the Crown but does not apply in respect of a contract as defined in the *Ministry of Transportation and Communications Creditors Payment Act*, and to which that Act applies. Act binds Crown  
R.S.O. 1980,  
c. 290

(2) Section 7 of the *Proceedings Against the Crown Act* does not apply in respect of an action against the Crown under this Act. Non-application of  
R.S.O. 1980,  
c. 393, s. 7.

**4.** An agreement by any person who supplies services or materials to an improvement that this Act does not apply to him or that the remedies provided by it are not available for his benefit is void. No waiver  
of rights

Contracts  
to conform

**5.** Every contract or subcontract related to an improvement is deemed to be amended in so far as is necessary to be in conformity with this Act.

Minor  
irregularities

**6.** No certificate, declaration or claim for lien is invalidated by reason only of a failure to comply strictly with subsection 32 (2) or (5), subsection 33 (1) or subsection 34 (5), unless in the opinion of the court a person has been prejudiced thereby, and then only to the extent of the prejudice suffered.

## PART II

### TRUST PROVISIONS

Owner's trust,  
amounts  
received for  
financing a  
trust

**7.—**(1) All amounts received by an owner, other than the Crown, or a municipality, that are to be used in the financing of the improvement, including any amount that is to be used in the payment of the purchase price of the land and the payment of prior encumbrances, constitute, subject to the payment of the purchase price of the land and prior encumbrances, a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Amounts  
certified  
as payable

(2) Where amounts become payable under a contract to a contractor by the owner on a certificate of a payment certifier, an amount that is equal to an amount so certified that is in the owner's hands or received by him at any time thereafter constitutes a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Where  
substantial  
performance  
certified

(3) Where the substantial performance of a contract has been certified, or has been declared by the court, an amount that represents the unpaid price of the substantially performed portion of the contract that is in the owner's hands or is received by him at any time thereafter constitutes a trust fund for the benefit of the contractor, subcontractors and other persons who supply services or materials to the improvement.

Obligations  
as trustee

(4) The owner is the trustee of the trust fund created by subsection (1), (2) or (3), and he shall not appropriate or convert any part of a fund to his own use or to any use inconsistent with the trust until the contractor is paid all amounts related to the improvement owed to him by the owner.

Contractor's  
and sub-  
contractor's  
trust,  
amounts  
received  
a trust

**8.—**(1) All amounts,

(a) owing to a contractor or subcontractor, whether or not due or payable; or

(b) received by a contractor or subcontractor,

on account of the contract or subcontract price of an improvement constitute a trust fund for the benefit of the subcontractors and other persons who have supplied services or materials to the improvement.

(2) The contractor or subcontractor is the trustee of the trust fund created by subsection (1) and he shall not appropriate or convert any part of the fund to his own use or to any use inconsistent with the trust until all subcontractors and other persons who supply services or materials to the improvement are paid all amounts related to the improvement owed to them by him.

Obligations  
as trustee

**9.**—(1) Where the owner's interest in a premises is sold by the owner prior to the time at which liens would have expired under Part V, the consideration received by that former owner as a result of the sale constitutes a trust property, and all liens that would have been enforceable against the premises but for the sale continue as a charge against the trust property, to the same extent as those liens would have been enforceable had the premises not been sold.

Vendor's  
trust,  
amounts  
received  
a trust

(2) The former owner is the trustee of the trust created by subsection (1), and he shall not appropriate or convert any part of the trust property to his own use or to any use inconsistent with the trust until the contractor is paid all amounts owed to him related to the improvement.

Obligations  
as trustee

**10.** Subject to Part IV (holdbacks), every payment by a trustee to a person he is liable to pay for services or materials supplied in relation to the improvement discharges the trust of the trustee making the payment and his obligations and liability as trustee to all beneficiaries of the trust to the extent of the payment made by him.

Payment  
discharging  
trust

**11.**—(1) Subject to Part IV, a trustee who pays in whole or in part for the supply of services or materials to an improvement out of money that is not subject to a trust under this Part may retain from trust funds an amount equal to that paid by him without being in breach of the trust.

Where trust  
funds may  
be reduced

(2) Subject to Part IV, where a trustee pays in whole or in part for the supply of services or materials to an improvement out of money that is loaned to him and that is not subject to a trust under this Part, trust funds may be applied to discharge the loan to the extent that the lender's money was so used by the trustee, and the application of trust money does not constitute a breach of the trust.

Application of  
trust funds  
to discharge  
loan



Set-off  
by trustee

**12.** Subject to Part IV, a trustee may, without being in breach of trust, retain from trust funds an amount that, as between himself and the person he is liable to pay under a contract or subcontract related to the improvement, is equal to the balance in the trustee's favour of outstanding debts, claims or damages, whether or not related to the improvement.

Liability for  
breach of  
trust by  
corporation

**13.—**(1) In addition to the persons who are otherwise liable in an action for breach of trust under this Part,

- (a) every director or officer of a corporation;
- (b) every employee or agent of a corporation; and
- (c) any person having effective control of a corporation,

who assents to, or acquiesces in, conduct that he knows or reasonably ought to know amounts to breach of trust by the corporation is liable for the breach of trust.

Effective  
control of  
corporation

(2) The question of whether a person has effective control of a corporation is one of fact and in determining this the court may disregard the form of any transaction and the separate corporate existence of any participant.

Joint and  
several  
liability

(3) Where more than one person is found liable for a particular breach of trust under this Part, those persons are jointly and severally liable.

Contribution

(4) A person who is found liable, or who has admitted liability, for a particular breach of a trust under this Part is entitled to recover contribution from any other person also liable for the breach in such amount as will result in equal contribution by all parties liable for the breach unless the court considers such apportionment would not be fair and, in that case, the court may direct such contribution or indemnity as the court considers appropriate in the circumstances.

## PART III

### THE LIEN

Creation  
of lien

**14.—**(1) A person who supplies services or materials to an improvement for an owner, contractor or subcontractor, has a lien upon the interest of the owner in the premises improved for the price of those services or materials.

No lien  
for interest

(2) No person is entitled to a lien for any interest on the amount owed to him in respect of the services or materials that

have been supplied by him, but nothing in this subsection affects any right that he may otherwise have to recover that interest.

**15.** A person's lien arises and takes effect when he first supplies his services or materials to the improvement. When lien arises

**16.**—(1) A lien does not attach to the interest of the Crown in a premises. Interest of Crown

(2) Where an improvement is made to a premises in which the Crown has an interest, but the Crown is not an owner within the meaning of this Act, the lien may attach to the interest of any other person in that premises. Interest of person other than Crown

(3) Where the Crown is the owner of a premises within the meaning of this Act, or where the premises is, Where lien does not attach to premises

(a) a public street or highway owned by a municipality; or

(b) a railway right-of-way,

the lien does not attach to the premises but constitutes a charge as provided in section 21, and the provisions of this Act shall have effect without requiring the registration of a claim for lien against the premises.

**17.**—(1) The lien of a person is limited to the amount owing to him in relation to the improvement and, subject to Part IV (holdbacks), it is further limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien. Limitation on value of lien

(2) Subject to Part IV, the total value of the liens of all members of a class, as defined in section 81, is limited to the least amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials made by the members of the class. Idem

(3) Subject to Part IV, in determining the amount of a lien under subsection (1) or (2), there may be taken into account the amount that is, as between a payer and the person he is liable to pay, the balance in the payer's favour of all outstanding debts, claims or damages, whether or not related to the improvement. Set-off

(4) Despite subsection (1), where land is dedicated to a municipality as a public street or highway and an improvement is made to the land at the written request of, or under an agree- Public highway, liability of municipality re



ment with, the municipality, but not at its expense, the municipality shall nevertheless, on default of payment by the proper payer, be liable to the value of the holdbacks under Part IV that would have been required were the improvement made at the expense of the municipality, and the procedure for making a claim under this subsection shall be the same as for enforcing a claim for lien against a municipality in respect of a public street or highway.

Joint or  
common  
interests

**18.** Where the interest of the owner in the premises is held jointly or in common with another person who knew or ought reasonably to have known of the making of the improvement, the joint or common interest in the premises of that person is also subject to the lien unless the contractor receives actual notice, before the supply of services or materials to the improvement is commenced, that the person having the joint or common interest assumes no responsibility for the improvement being made.

Where owner's  
interest  
leasehold

**19.—(1)** Where the interest of the owner to which the lien attaches is leasehold, the interest of the landlord shall also be subject to the lien to the same extent as the interest of the owner if the contractor serves the landlord with written notice of the improvement to be made, unless the landlord, within fifteen days of receiving the notice from the contractor, serves the contractor with written notice that the landlord assumes no responsibility for the improvement to be made.

Forfeiture  
or termination  
of lease,  
effect of

(2) No forfeiture of a lease to, or termination of a lease by, a landlord, except for non-payment of rent, deprives any person having a lien against the leasehold of the benefit of his lien.

Notice to  
lien  
claimants

(3) Where a landlord intends to enforce forfeiture or terminate a lease of the premises because of non-payment of rent, and there is a claim for lien registered against the premises in the proper land registry office, the landlord shall give notice in writing of his intention to enforce forfeiture or terminate the lease and of the amount of the unpaid rent to each person who has registered a claim for lien against the premises.

Payment  
of unpaid  
rent

(4) A person receiving notice under subsection (3) may, within ten days thereafter, pay to the landlord the amount of the unpaid rent, and the amount so paid may be added by that person to his claim for lien.

General  
lien

**20.** Where an owner enters into a single contract for improvements on more than one premises owned by him, any person supplying services or materials under that contract, or under a subcontract under that contract, may choose to have his lien follow the form of the contract and be a general lien against each of those premises for the price of all services and materials he supplied to all the premises.

**21.** The lien of a person is a charge upon the holdbacks required to be retained by Part IV, and subject to subsection 17 (3), any additional amount owed in relation to the improvement by a payer to the contractor or to any subcontractor whose contract or subcontract was in whole or in part performed by the supply of services or materials giving rise to the lien.

Lien a  
charge

## PART IV

### HOLDBACKS

**22.—**(1) Each payer upon a contract or subcontract under which a lien may arise shall retain a holdback equal to 10 per cent of the price of the services or materials as they are actually supplied under the contract or subcontract until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

Basic  
holdback

(2) Where the contract has been certified or declared to be substantially performed but services or materials remain to be supplied to complete the contract, the payer upon the contract, or a subcontract, under which a lien may arise shall retain, from the date certified or declared to be the date of substantial performance of the contract, a separate holdback equal to 10 per cent of the price of the remaining services or materials as they are actually supplied under the contract or subcontract, until all liens that may be claimed against the holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Separate  
holdback  
for finishing  
work

(3) The obligation to retain the holdbacks under subsections (1) and (2) applies irrespective of whether the contract or subcontract provides for partial payments or payment on completion.

When  
obligation  
to retain  
applies

**23.—**(1) An owner is personally liable to those lien claimants who have valid liens against his interest in the premises to the extent of the holdbacks that he is required to retain under this Part.

Personal  
liability  
of owner

(2) The personal liability of an owner under subsection (1) may only be determined in an action under this Act.

How  
determined

**24.—**(1) A payer acting in good faith may, without jeopardy, make payments on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract unless, prior to making payment, the payer has received written notice of a lien.

Payments  
that may  
be made

Idem

(2) Where a payer has received written notice of a lien and has retained, in addition to the holdbacks required by this Part, an amount sufficient to satisfy the lien, the payer acting in good faith may, without jeopardy, make payment on a contract or subcontract up to 90 per cent of the price of the services and materials that have been supplied under that contract or subcontract, less the amount retained.

Payment  
where  
subcontract  
certified  
complete

**25.** Where a subcontract has been certified complete under section 33, each payer upon the contract and any subcontract may, without jeopardy, make payment reducing the holdbacks required by this Part to the extent of the amount of holdback he has retained in respect of the completed subcontract, where all liens in respect of the completed subcontract have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court).

Payment  
of basic  
holdback

**26.** Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (1) (basic holdback), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Payment of  
holdback for  
finishing  
work

**27.** Each payer upon the contract or a subcontract may, without jeopardy, make payment of the holdback he is required to retain by subsection 22 (2) (holdback for finishing work), so as to discharge all claims in respect of that holdback, where all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44.

Direct  
payment  
to person  
having lien

**28.** Where an owner, contractor or subcontractor makes a payment without obligation to do so to any person having a lien for or on account of any amount owing to that person for services or materials supplied to the improvement and gives written notice of the payment or his intention to pay to the proper payer of that person, the payment shall be deemed to be a payment by the owner, contractor or subcontractor to the proper payer of that person, but no such payment reduces the amount of the holdback required to be retained under this Part or reduces the amount that must be retained in response to a written notice of lien given by a person other than the person to whom payment is made.

Discharge,  
extent of

**29.** Payments made in accordance with this Part operate as a discharge of the lien to the extent of the amount paid.

**30.** Where the contractor or a subcontractor defaults in the performance of his contract or subcontract, a holdback shall not be applied by any payer toward obtaining services or materials in substitution for those that were to have been supplied by the person in default, nor in payment or satisfaction of any claim against the person in default, until all liens that may be claimed against that holdback have expired as provided in Part V, or have been satisfied, discharged or provided for under section 44 (payment into court). How holdback  
not to be  
applied

## PART V

### EXPIRY, PRESERVATION AND PERFECTION OF LIENS

**31.**—(1) Unless preserved under section 34, the liens arising from the supply of services or materials to an improvement expire as provided in this section. Expiry  
of liens

(2) Subject to subsection (4), the lien of a contractor, Contractor's  
liens

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published as provided in section 32, and

(ii) the date the contract is completed or abandoned;  
and

(b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified to be the date of substantial performance, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,

(i) the date the contract is completed, and

(ii) the date the contract is abandoned.

(3) Subject to subsection (4), the lien of any other person, Liens of  
other persons

(a) for services or materials supplied to an improvement on or before the date certified or declared to be the date of



the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earliest of,

- (i) the date on which a copy of the certificate or declaration of the substantial performance of the contract is published, as provided in section 32, and
  - (ii) the date on which he last supplies services or materials to the improvement, and
  - (iii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under that subcontract; and
- (b) for services or materials supplied to the improvement where there is no certification or declaration of the substantial performance of the contract, or for services or materials supplied to the improvement after the date certified or declared to be the date of the substantial performance of the contract, expires at the conclusion of the forty-five-day period next following the occurrence of the earlier of,
- (i) the date on which he last supplies services or materials to the improvement, and
  - (ii) the date a subcontract is certified to be completed under section 33, where the services or materials were supplied under that subcontract.

Separate  
liens when  
ongoing  
supply

(4) Where a person has supplied services or materials to an improvement on or before the day certified or declared to be the date of the substantial performance of the contract and has also supplied, or is to supply, services or materials after that date, his lien in respect of the services or materials supplied on or before the date of substantial performance expires without affecting any lien that he may have for the supply of services or materials after that date.

Declaration  
of last supply

(5) Where a person who has supplied services or materials under a contract or subcontract makes a declaration in the prescribed form declaring,

- (a) the date on which he last supplied services or materials under that contract or subcontract; and
- (b) that he will not supply any further services or materials under that contract or subcontract,

then the facts so stated shall be deemed to be true against the person making the declaration.

**32.—**(1) The following rules govern the certification and declaration of the substantial performance of a contract:

Rules  
governing  
certification  
or declaration  
of substantial  
performance

1. On the application of the contractor, the payment certifier, or if there is no payment certifier, the owner and the contractor jointly shall determine whether a contract has been substantially performed in accordance with section 2, and where he or they so determine, shall certify the substantial performance of the contract by signing a certificate in the prescribed form.
2. The payment certifier or the owner and the contractor jointly, as the case may be, shall set out in the certificate the date on which the contract was substantially performed.
3. The date set out in the certificate as the date on which the contract was substantially performed is deemed for the purpose of this Act to be the date on which that event occurred.
4. Where the payment certifier certifies the substantial performance of a contract he shall within seven calendar days of the day the certificate is signed give or send a copy of the certificate to the owner and to the contractor.
5. The contractor shall publish a copy of the certificate once in a construction trade newspaper.
6. Where the contractor does not publish a copy of the certificate within seven days of receiving a copy of the certificate signed by the payment certifier or, where there is no payment certifier, signed by the owner, any person may publish a copy of the certificate.
7. Where there is a failure, or refusal to certify substantial performance of the contract within a reasonable time, any person may apply to the court, and the court, upon being satisfied that the contract is substantially performed, and upon such terms as to costs or otherwise as it considers fit, may declare that the contract has been substantially performed, and the declaration has the same force and effect as a certificate of substantial performance of the contract.

8. Unless the court otherwise orders, the day the declaration is made shall be deemed to be the day the contract was substantially performed.
9. The person who applied to the court shall publish a copy of the declaration of substantial performance once in a construction trade newspaper.
10. For the purposes of this Part, a certificate or declaration of the substantial performance of a contract has no effect until a copy of the certificate or declaration is published.

Contents of  
certificate

(2) Every certificate or declaration made or given under this section shall contain,

- (a) the name and address for service of the owner and of the contractor;
- (b) the name and address of the payment certifier, where there is one;
- (c) a short description of the improvement;
- (d) the date on which the contract was substantially performed;
- (e) where the lien attaches to the premises, a concise description containing a reference to lot and plan or instrument registration number sufficient to identify the premises; and
- (f) the street address, if any, of the premises.

Liability  
for refusal  
to certify

(3) Any person who is required by this section to make a determination of the substantial performance of a contract, and who after receiving an application fails or refuses within a reasonable time to certify the substantial performance of the contract even though there is no reasonable doubt that the contract has, in fact, been substantially performed is liable to anyone who suffers damages as a result.

Liability  
for failure  
to furnish  
copy of  
certificate

(4) A payment certifier who fails to comply with paragraph 4 of subsection 32 (1) is liable to anyone who suffers damage as a result.

Manner of  
publication

(5) A construction trade newspaper shall publish copies of certificates or declarations of substantial performance in the prescribed form and manner.



**33.**—(1) Upon the request of the contractor, the payment certifier on the contract, or the owner and the contractor jointly, may determine whether a subcontract has been completed, and where he or they so determine, he or they may certify the completion of the subcontract in the prescribed form.

Certificate  
re subcontract

(2) Where a subcontract is certified to be completed, the subcontract shall be deemed to have been completed on the date of certification.

Date  
subcontract  
deemed  
completed

(3) If services or materials are supplied to the improvement under a subcontract after the date the subcontract is certified to be completed, those services or materials shall be deemed to have been last supplied on the date of certification.

Services or  
materials  
supplied after  
subcontract  
certified  
completed

(4) Within seven days of the date the subcontract is certified to be completed, the payment certifier shall give or send a copy of the certificate,

Copy of  
certificate

(a) to the subcontractor whose subcontract has been certified as complete; and

(b) to the owner and the contractor.

**34.**—(1) A lien may be preserved during the supplying of services or materials or at any time before it expires,

How lien  
preserved

(a) where the lien attached to premises by the registration in the proper land registry office of a claim for lien on the title of the premises in accordance with this Part; and

(b) where the lien does not attach to premises, by giving to the owner a copy of the claim for lien together with the affidavit of verification required by subsection (6).

(2) Where a claim for lien is in respect of a public street or highway owned by a municipality, the copy of the claim for lien and affidavit shall be given to the clerk of the municipality.

Public  
highway

(3) Where the owner of the premises is the Crown, the copy of the claim for lien and affidavit shall be given to the office prescribed by regulation, or where no office has been prescribed, to the ministry or Crown agency for whom the improvement is made.

Premises  
owned by  
Crown

(4) Where the premises is a railway right-of-way, the copy of the claim for lien and affidavit shall be given to the manager or any person apparently in charge of any office of the railway in Ontario.

Railway  
right-of-way

(5) Every claim for lien shall set out,

Contents  
of claim  
for lien

- (a) the name and address for service of the person claiming the lien and the name and address of the owner of the premises and of the person for whom the services or materials were supplied and the time within which those services or materials were supplied;
- (b) a short description of the services or materials that were supplied;
- (c) the contract price or subcontract price;
- (d) the amount claimed in respect of services or materials that have been supplied; and
- (e) a description of the premises,

R.S.O. 1980,  
cc. 230, 445

(i) where the lien attaches to the premises, sufficient for registration under the *Land Titles Act* or the *Registry Act*, as the case may be, or

(ii) where the lien does not attach to the premises, being the address or other identification of the location of the premises.

Affidavit of  
verification

(6) A claim for lien shall be certified in duplicate by an affidavit of the person claiming the lien, including a trustee of the workers' trust fund where subsection 87 (2) applies, or of an agent or assignee of the claimant who has informed himself of the facts set out in the claim, and the affidavit of the agent or assignee shall state that he believes those facts to be true.

Preservation  
of general  
lien

(7) Subject to subsection 44 (4) (apportionment), a general lien shall be preserved against each of the premises that the person having the lien desires the lien to continue to apply against, and the claim against each premises may be for the price of services or materials that have been supplied to all the premises.

Who may join  
in claim

(8) Any number of persons having liens upon the same premises may unite in a claim for lien, but where more than one lien is included in one claim, each person's lien shall be verified by affidavit as required by subsection (6).

Liability for  
exaggerated  
claim, etc.

**35.** In addition to any other ground on which he may be liable, any person who preserves a claim for lien or who gives written notice of a lien,

- (a) for an amount which he knows or ought to know is grossly in excess of the amount which he is owed; or
- (b) where he knows or ought to know that he does not have a lien,

is liable to any person who suffers damage as a result.

What liens  
may be  
perfected

**36.—**(1) A lien may not be perfected unless it is preserved.

(2) A lien that has been preserved expires unless it is perfected prior to the end of the forty-five-day period next following the last day, under section 31, on which the lien could have been preserved.

Expiry of  
preserved  
lien

(3) A lien claimant perfects his preserved lien,

How lien  
perfected

- (a) where the lien attaches to the premises, when he commences an action to enforce his lien and, except where an order to vacate the registration of his lien is made, he registers a certificate of action in the prescribed form on the title of the premises; or
- (b) where the lien does not attach to the premises, when he commences an action to enforce his lien.

(4) A preserved lien becomes perfected by sheltering under a lien perfected by another lien claimant in respect of the same premises in accordance with the following rules:

Rules re  
sheltering

1. The preserved lien of a lien claimant is perfected by sheltering under the perfected lien of another lien claimant in respect of the same premises where,
  - i. the lien of that other lien claimant was a subsisting perfected lien at the time when the lien of the lien claimant was preserved, or
  - ii. the lien of that other lien claimant is perfected in accordance with clause (3) (a) or (b) between the time when the lien of the lien claimant was preserved and the time that the lien of the lien claimant would have expired under subsection (2).
2. The validity of the perfection of a sheltered lien does not depend upon the validity, proper preservation or perfection of the lien under which it is sheltered.
3. A sheltered claim for lien is perfected only as to the defendants and the nature of the relief claimed in the statement of claim under which it is sheltered.
4. Upon notice by a defendant named in a statement of claim, any lien claimant whose lien is sheltered under that statement of claim shall provide the defendant with further particulars of his claim or of any fact alleged in his claim for lien.

General  
lien

(5) Subject to subsection 44 (4) (apportionment), a preserved general lien that attaches to the premises shall be perfected against each premises to which the person having the lien desires the lien to continue to apply.

Expiry of  
perfected  
lien

**37.—**(1) A perfected lien expires where,

- (a) no appointment is made under section 62 for the trial of an action in which that lien may be realized; or
- (b) an action in which that lien may be realized is not set down for trial,

within two years of the date of the commencement of the action which perfected that lien.

Application  
under s. 46

(2) Where a lien has expired under subsection (1), an application may be made under section 46.

Saving other  
rights

**38.** The expiration of a lien under this Act shall not affect any other legal or equitable right or remedy otherwise available to the person whose lien has expired.

## PART VI

### RIGHT TO INFORMATION

Right to  
information;  
from owner  
or contractor

**39.—**(1) Any person having a lien or who is the beneficiary of a trust under Part II may, at any time, by written request, require the owner, or the contractor, to provide him within a reasonable time, not to exceed twenty-one days, with,

- (a) the names of the parties to the contract;
- (b) the contract price;
- (c) the state of accounts between the owner and the contractor; and
- (d) a copy of any labour and material payment bond in respect of the contract posted by the contractor with the owner.

from  
mortgagee  
or unpaid  
vendor

(2) Any person having a lien or any beneficiary of a trust under Part II may, at any time, by written request, require a mortgagee or unpaid vendor to provide him within a reasonable time, not to exceed twenty-one days, with,

- (a) sufficient details of any mortgage on the premises to enable the person who requests the information to

determine whether the mortgage was taken by the mortgagee for the purposes of financing the making of the improvement;

- (b) a statement showing the amount advanced under the mortgage, the dates of those advances, and any arrears in payment including any arrears in the payment of interest; or
- (c) a statement showing the amount secured under the agreement of purchase and any arrears in payment including any arrears in the payment of interest.

(3) The trustee of a workers' trust fund may at any time by written request require any contractor or subcontractor to permit him, within a reasonable time after making the request, not to exceed twenty-one days, to inspect the payroll records of all workers who are beneficiaries of the fund, and who have supplied labour to the making of the improvement, and who are employed by the contractor or the subcontractor.

by trustee  
or workers'  
trust fund

(4) A contractor shall, upon written request made to him by any person, within a reasonable time furnish in writing to the person the date of publication and the name of the construction trade newspaper in which a copy of a certificate of substantial performance has been published under subsection 32 (1).

respecting  
publication  
of certificate  
of substantial  
performance

(5) Where a person, who is required under subsection (1), (2), (3) or (4) to provide information or access to information, does not provide the information or access to information as required or knowingly or negligently mis-states that information, he is liable to the person who made the request for any damages sustained by reason thereof.

Liability  
for failure  
to provide  
information

(6) Upon motion, the court may at any time, whether or not an action has been commenced, order a person to comply with a request that has been made to him under this section and when making the order, the court may make any order as to costs as it considers appropriate in the circumstances, including an order for the payment of costs on a solicitor-and-client basis.

Order by  
court to  
comply with  
request

**40.—**(1) Any person who has verified a claim for lien that has been preserved is liable to be cross-examined without an order on the claim for lien at any time, irrespective of whether an action has been commenced.

Cross-  
examination  
on claim  
for lien

(2) There shall be only one examination under subsection (1), but the contractor and every person named in the claim for lien who has an interest in the premises are entitled to participate therein.

Who may  
participate



Notice

(3) Any person intending to examine a person under subsection (1) shall give at least seven days notice of the examination specifying the time and place for the examination to,

- (a) the person to be examined or his solicitor;
- (b) every other person named in the claim for lien as having an interest in the premises; and
- (c) the contractor.

Application  
of rules  
of practice

(4) The Supreme Court Rules of Practice pertaining to examinations apply, with necessary modifications, to cross-examinations under this section.

## PART VII

### DISCHARGE OF PRESERVED OR PERFECTED LIENS

Discharge  
of lien claim  
by release

**41.** A preserved or perfected lien may be discharged,

- (a) where the lien attaches to the premises, by the registration of a release in the prescribed form on the title to the premises and the release shall, except where the lien claimant is a corporation, be supported by an affidavit of execution; or
- (b) where the lien does not attach to the premises, by giving a release in the prescribed form to the owner, in the manner set out in section 34 for the giving of copies of the claim for lien.

Discharge  
of general  
lien

**42.** A preserved or perfected general lien may be discharged against any one or more of the premises that are subject to it, without affecting its application to any other premises to which it applies, by the registration of a release in the prescribed form on the title to the premises released.

Postponement  
of lien claim

**43.** A preserved or perfected lien may be postponed in favour of the interest of another person in the premises by the registration on the title to the premises of a notice of postponement in the prescribed form, and in that case, subsection 80 (8) applies (priorities in event of postponement).

Vacating  
lien by  
payment  
into court;  
without notice

**44.—(1)** Upon the motion of any person, without notice to any other person, the court shall make an order vacating,

- (a) where the lien attaches to the premises, the registration of a preserved or perfected lien and any certificate of action in respect of that lien; or

- (b) where the lien does not attach to the premises, the claim for lien,

where the person bringing the motion pays into court, or posts security in an amount equal to, the total of,

- (c) the full amount claimed as owing in the claim for lien; and  
(d) the lesser of \$50,000 or 25 per cent of the amount described in clause (c), as security for costs.

(2) Upon the motion of any person, the court may make an order vacating the registration of a preserved or perfected lien, and any certificate of action in respect of that lien, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy that lien.

on payment in  
of reasonable  
amount

(3) Where the lien does not attach to the premises, the court may make an order, upon the motion of any person, vacating a claim for lien served upon the owner, upon the payment into court or the posting of security of an amount that the court determines to be reasonable in the circumstances to satisfy the lien.

Where lien  
does not  
attach to  
premises

(4) Where a motion is made to vacate the registration of a general lien against one or more of the premises subject to that lien, the court may apportion the general lien between the premises in respect of which the application is made and all other premises that are subject to the lien.

Where  
general lien

(5) Where an amount has been paid into court or security has been posted with the court under this section, the court, upon notice to such persons as it may require, may order where it is appropriate to do so,

Reduction  
of amount  
paid into  
court

- (a) the reduction of the amount paid into court, and the payment of any part of the amount paid into court to the person entitled; or  
(b) the reduction of the amount of security posted with the court, and the delivery up of the security posted with the court for cancellation or substitution, as the case may be.

(6) Where an order is made under clause (1) (a) or subsection (2), the lien ceases to attach to the premises and becomes instead a charge upon the amount paid into court or security posted.

Lien a  
charge upon  
amount paid  
into court



Idem

(7) Where an order is made under clause (1) (b) or subsection (3), the lien ceases to attach to the holdbacks and other amounts subject to a charge under section 21 and becomes instead a charge upon the amount paid into court or security posted.

Consolidation  
of motions

(8) Where more than one motion is made under subsection (1), (2) or (3) for the payment into court or posting of security to obtain an order vacating the registration of one or more preserved or perfected liens arising from the same improvement, the court may consolidate the motions and require that the amount paid into court or security posted be adequate to satisfy all the liens that are the subject of each of the motions, or make any other order that it considers appropriate.

Rules

(9) Where an order is made under subsection (1), (2) or (3), the following rules apply:

1. The lien claimant whose lien was the subject of the order may proceed with an action to enforce his claim against the amount paid into court or security posted in accordance with the procedures set out in Part VIII, but no certificate of action shall be registered against the premises.
2. The amount paid into court or security posted is subject to the claims of all persons having a lien to the same extent as if the amount paid into court or security posted was realized by the sale of the premises in an action to enforce the lien.
3. Where any amount is realized in a lien action by the sale of the premises or otherwise, it shall be pooled into a common fund with the amount paid into court or security posted under this section, and shall be distributed among all lien claimants in accordance with the priorities provided for in section 82.

Declaration  
by court  
that preserved  
lien has  
expired

**45.—**(1) Where a lien that attaches to the premises is not perfected within the time allowed for doing so under section 36, the court upon,

- (a) the motion of any person without notice to any other person;
- (b) proof that the lien has not been perfected; and
- (c) production of,

(ii) a registrar's abstract under the *Registry Act*, R.S.O. 1980,  
c. 445

together with a certified copy of the claim for lien,

shall declare that the lien has expired and order that the registration of the claim for lien be vacated.

(2) Where the court is satisfied that a preserved lien that does Idem not attach to the premises has not been perfected within the time allowed for doing so under section 36, the court upon the motion of any person without notice to any other person shall declare that the lien has expired.

(3) Where a declaration is made under subsection (1) or (2), Order  
returning  
amount paid  
into court  
or cancelling  
security the court shall order that,

(a) any amount that has been paid into court under section 44 in respect of that lien be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that lien be cancelled.

**46.—**(1) Where a perfected lien that attaches to the premises Order  
dismissing  
action,  
etc. has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to enforce that lien and vacating the certificate of action in respect of that action.

(2) Where a perfected lien that does not attach to the premises Idem has expired under section 37, the court, upon the motion of any person, shall declare that the lien has expired and shall make an order dismissing the action to realize upon that lien.

(3) A motion under subsection (1) or (2) may be brought with- Costs out notice, but no order as to costs in the action may be made upon the motion unless notice of that motion was given to the person against whom the order for costs is sought.

(4) Where an action is dismissed under subsection (1) or (2), Order  
returning  
money paid  
into court  
or cancelling  
security the court shall order that,

(a) any amount that has been paid into court under section 44 in respect of that action be returned to the person who paid the amount into court; and

(b) any security that has been posted under section 44 in respect of that action be cancelled.

General  
power to  
discharge lien

**47.**—(1) Upon motion, the court may,

(a) order the discharge of a lien;

(b) order that the registration of,

(i) a claim for lien, or

(ii) a certificate of action,

or both, be vacated;

(c) declare, where written notice of a lien has been given, that the lien has expired, or that the written notice of the lien shall no longer bind the person to whom it was given; or

(d) dismiss an action,

upon any proper ground and subject to any terms and conditions that the court considers appropriate in the circumstances.

Direction  
by court

(2) Where a certificate of action is vacated under subsection (1), and there remain liens which may be enforced in the action to which that certificate relates, the court shall give any directions that are necessary in the circumstances in respect of the continuation of that action.

Discharge  
irrevocable

**48.** A discharge of a lien under this Part is irrevocable and the discharged lien cannot be revived, but no discharge affects the right of the person whose lien was discharged to claim a lien in respect of services or materials supplied by him subsequent to the registration of the claim for lien relating to the discharged lien.

Registration

**49.** Where the lien attaches to the premises, an order declaring that a lien has expired, or discharging a lien, or vacating the registration of a claim for lien or a certificate of action, may be registered by registering on the title to the premises a certified copy of the order that includes a description of the premises sufficient for registration under the *Registry Act* or the *Land Titles Act*, as the case may be, and a reference to the registration number of every preserved or perfected claim for lien and certificate of action thereby affected.

R.S.O. 1980,  
cc. 445, 230

## PART VIII

### JURISDICTION AND PROCEDURE

Lien claimant  
enforceable  
in action

**50.**—(1) A lien claim is enforceable in an action in the Supreme Court in accordance with the procedure set out in this Part.

(2) A trust claim shall not be joined with a lien claim but may be brought in any court of competent jurisdiction. Trust claim and lien claim not to be joined

(3) Any number of lien claimants whose liens are in respect of the same owner and the same premises may join in the same action. Joinder in action

**51.**—(1) Where the premises or a part thereof are situate in the Judicial District of York, an action shall be tried by a judge of the court. Where premises situate in Judicial District of York

(2) Where the premises are situate outside the Judicial District of York, an action shall be tried, Where premises situate outside Judicial District of York

(a) by a local judge of the court having jurisdiction in the county or district in which the premises or a part thereof are situate; or

(b) where upon motion the local judge so orders, by a judge of the court at the regular sittings of the court for the trial of actions in the county or district in which the premises or a part thereof are situate.

(3) Where the premises or a part thereof are situate in more than one county or district, an action may be tried by any judge or local judge who has jurisdiction under subsection (1) or (2) in any of the counties or districts in which the premises are situate. Where premises situate in more than one county

**52.**—(1) Except as provided in subsection (2), Powers of master, etc.

(a) the master, where the premises or a part thereof are situate in the Judicial District of York;

(b) a local master appointed for the county or district in which the premises or a part thereof are situate, where the premises are situate outside the Judicial District of York;

(c) a local judge, where the local judge has ordered that the action be tried by a judge of the court under clause 51 (2) (b),

has jurisdiction to hear and dispose of any motion under this Act, including a motion brought prior to the commencement of an action, and all motions relating to the conduct of an action or reference under this Act.

(2) A master or appointed local master shall not hear or dispose of a motion, What matters not to be dealt with by master

(a) for the trial of the action by a judge under clause 51 (2) (b);

- (b) for the reference of an action to a master or appointed local master for trial;
- (c) that is an originating application; or
- (d) in respect of an appeal.

Further  
powers of  
master

(3) In addition to his jurisdiction under subsection (1), a master or appointed local master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

Court to  
dispose  
completely  
of action

**53.** The court, whether the action is being tried by a judge or local judge, or by a master or an appointed local master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim, and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

Where  
exclusive  
jurisdiction  
not acquired

**54.** A judge, local judge, master or an appointed local master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of his appointing the time and place for the trial of action or reference, or for the holding of a settlement meeting.

How action  
commenced

**55.—(1)** An action shall be commenced by filing a statement of claim in the office of the registrar or local registrar of the court in the county or district in which the premises or a part thereof are situate.

Service of  
statement  
of claim

(2) The statement of claim shall be served within ninety days after it is filed, but the court may, upon a motion made before or after the expiration of that period of time, extend the time for service.



(3) A cross-claim or counterclaim by any person shall accompany his statement of defence, but on motion the court may grant leave to deliver a cross-claim or counterclaim after this time where it is appropriate to do so, and where leave is granted, the court may,

- (a) make any order as to costs that it considers appropriate; and
- (b) give directions as to the conduct of the action.

**56.**—(1) The time for delivering a statement of defence to a lien claim, cross-claim, counterclaim or third party claim shall be the same as for entering an appearance under the Supreme Court Rules of Practice.

(2) Where a person named as a defendant in a statement of claim, counterclaim, cross-claim or third party claim defaults in the delivery of a statement of defence in respect of that claim, pleadings may be noted closed against him in respect of that claim.

(3) Where pleadings have been noted closed against a defendant under subsection (2), he shall not be permitted to contest the claim of the person who named him as a defendant, or to file a statement of defence, except with leave of the court, to be given only where the court is satisfied that there is evidence to support a defence, and where leave is granted, the court,

- (a) may make any order as to costs that it considers appropriate; and
- (b) may give directions as to the conduct of the action.

(4) Except where leave has been granted under subsection (3), a defendant against whom pleadings have been noted closed under subsection (1) shall be deemed to admit all allegations of fact made in the statement of claim, counterclaim, cross-claim or third party claim, as the case may be, and shall not be entitled to notice of or to participate in the trial of the action or any proceeding in respect of the action and judgment may be given against him.

(5) Every statement of claim, cross-claim, counterclaim or third party claim shall include the following warning to defendants:

“WARNING: If you wish to defend against this claim, you are required to deliver a statement of defence within the time allowed under the Supreme Court Rules of Practice for enter-

ing an appearance. Should you fail to deliver a statement of defence as required, pleadings may be noted closed against you, and you shall be deemed to admit all allegations of fact contained in this claim, and you shall not be entitled to notice of or to participate in the trial or any proceeding in respect of this claim and judgment may be given against you."

Joinder  
of claims

**57.—**(1) A plaintiff in an action may join with his lien claim a claim for breach of his contract or subcontract.

Counter-  
claims and  
cross-claims

(2) A defendant in an action may,

- (a) counterclaim against the person who named him as a defendant in respect of any claim that he may be entitled to make against that person, whether or not that claim is related to the making of the improvement;
- (b) cross-claim against a co-defendant in respect of any claim that he may be entitled to make against that person related to the making of the improvement.

Rules re  
third party  
proceedings

**58.** The following rules govern third party proceedings:

1. Subject to paragraph 2, a defendant named in a statement of claim, cross-claim, counterclaim or third party claim may join a person who is not a party to the action as a third party for the purpose of claiming contribution or indemnity from the third party in respect of that claim.
2. A person may only be joined as a third party with leave of the court upon a motion made with notice to the owner and all persons having subsisting preserved or perfected liens at the time of the motion, but such leave shall not be given unless the court is satisfied that the trial of the third party claim will not,
  - i. unduly prejudice the ability of the third party or of any lien claimant or other defendant to prosecute his claim or conduct his defence, or
  - ii. unduly delay or complicate the resolution of the lien action.
3. The court may give such directions as it considers appropriate in the circumstances in respect of the conduct of third party proceedings.

Parties

**59.—**(1) The person serving the notice of trial and all persons served with notice of trial are parties to the action.



(2) Subject to section 56, the court may at any time add or join any person as a party to the action. Adding parties

**60.**—(1) On motion made after the delivery of all statements of defence, or the statements of defence to all cross-claims, counterclaims, or third party claims, if any, or the time for their delivery has expired, Reference to master, etc.

(a) a judge may refer to a master; or

(b) a local judge may refer to a local master appointed for the county or district in which the premises or part thereof are situate,

the whole action for trial under section 71 of the *Judicature Act*. R.S.O. 1980, c. 223

(2) At the trial, Idem

(a) a judge may direct a reference to a master; or

(b) a local judge may direct a reference to a local master appointed for the county or district in which the premises or part thereof are situate,

under section 70 or 71 of the *Judicature Act*.

(3) Where under subsection (1), the action has been referred to the master or local master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge or the local judge of the court who directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

(4) Where no motion is made under subsection (3), or where the motion is refused, the person who subsequently became a party to the action is bound by the judgment directing the reference as if he had been a party to the action at the time the reference was directed. Effect on subsequent party to action

**61.**—(1) The court may at any time make an order awarding carriage of the action to any person who has a perfected lien. Carriage of action

(2) Where more than one action is brought to enforce liens in respect of the same improvement, the court may, Consolidation of actions

(a) consolidate all the actions into one action; and

(b) award carriage of the action to any person who has a perfected lien.

Application  
to fix date  
for trial or  
settlement  
meeting

**62.**—(1) Any party may make a motion to the court without notice to any other person at any time after,

- (a) the delivery of the statements of defence, or the statements of defence to all cross-claims, counterclaims or third party claims, if any, where the plaintiff's claim is disputed; or
- (b) the expiry of the time for the delivery of these statements of defence in all other cases,

to have a day fixed for the trial of the action, or for the holding of a settlement meeting under section 63, or both.

Notice of  
settlement  
meeting

(2) Where the court orders the holding of a settlement meeting, then at least ten days before the date appointed for the holding of the meeting, the party who obtained the appointment shall serve a notice of settlement meeting upon any person who was, on the eleventh clear day before the date appointed,

- (a) subject to section 56 (default in filing defence), the owner and every other person named as a defendant in every statement of claim in respect of the action;
- (b) where the lien attaches to the premises, a person with a registered interest in the premises;
- (c) where the lien attaches to the premises, an execution creditor of any person described in clause (a) or (b);
- (d) any other person having a preserved or perfected lien against the premises; and
- (e) a person joined as a third party under section 58.

Request to  
identify other  
persons having  
lien

(3) Where the lien does not attach to the premises, the party who obtained the appointment for the holding of the settlement meeting shall request the owner to inform him of the identity of every person described in clause (2) (d).

Service  
of notice  
of trial

(4) Subject to section 56, where the court fixes a date for trial, the party who obtained the appointment shall serve a notice of trial, at least ten days before the date appointed for trial, upon any person who is or would be entitled to a notice of a settlement meeting under subsection (2).

Conduct of  
settlement  
meeting

**63.**—(1) Where a settlement meeting is ordered by the court, it shall be conducted in accordance with this section.

Idem

(2) The settlement meeting shall be conducted by,

- (a) a person selected by a majority of the persons present at the meeting; or
- (b) where no person is selected, by the person who took out the appointment,

and shall be for the purpose of resolving or narrowing any issues to be tried in the action.

(3) The results of the settlement meeting shall be embodied in a <sup>Idem</sup> statement of settlement which shall summarize those issues of fact and law which have been settled by the parties.

(4) The statement of settlement shall be filed with the court <sup>Statement of settlement</sup> and the settlement shall be attached to and form part of the record, and shall be binding upon all persons served with notice of the settlement meeting, and upon all defendants against whom pleadings have been noted closed under section 56, but subject to subsection 56 (3), the court may vary or set aside the statement of settlement upon such order as to costs or otherwise as it considers appropriate.

(5) Upon the filing of the statement of settlement with the <sup>Power of court</sup> court, the court may,

- (a) if there was no dispute at the meeting to a claim for lien, declare the lien valid and give such further judgment as it considers appropriate;
- (b) enter a judgment or make a report upon consent on those issues which have been settled by the parties;
- (c) make any order that is necessary in order to give effect to any judgment or report of the court under clause (a) or (b); and
- (d) make any order that is necessary for, or will expedite the conduct of, the trial.

(6) Rule 244 of the Supreme Court Rules of Practice does not <sup>Non-application of rule 244</sup> apply to an action under this Act.

**64.—**(1) The results of the trial shall be embodied, <sup>Judgment or report</sup>

- (a) in a judgment, where the trial is conducted by a judge or local judge of the court; or
- (b) in a report, where the trial is conducted by a master or an appointed local master of the court on a reference.

Varying  
form

(2) The prescribed form of judgment or report may be varied by the court in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment or report to which he is entitled.

When report  
deemed  
confirmed

(3) The report of a master or an appointed local master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of appeal is served within that time.

Issue of  
execution

(4) The judgment or report may direct any party found liable to make a payment, to make such payment forthwith, and execution may be issued,

(a) immediately, in the case of a judgment; or

(b) after confirmation, in the case of a report.

Order for  
sale

(5) The court may order that the interest in the premises be sold and may direct the sale to take place at any time after the judgment or confirmation of the report, allowing a reasonable time for advertising the sale.

Persons who  
may be let in

(6) The court may allow any person with a perfected lien,

(a) who was not served with a notice of trial; or

R.S.O. 1980,  
c. 25

(b) whose action was stayed by reason of an order under the *Arbitrations Act*,

to be let in to prove his claim at any time before the amount realized in the action for the satisfaction of the lien has been distributed, and where his claim is allowed, the judgment or report shall be amended to include his claim.

Personal  
judgment

**65.** Subject to paragraph 3 of subsection 36 (4) (sheltering), the court may award any lien claimant a personal judgment, whether he proves his lien or not, upon any ground relating to his claim that is disclosed by the evidence against any party to the action for any amount that may be due to him and that he might have recovered in a proceeding against that party.

Right to  
share in  
proceeds

**66.** Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, a person with a perfected lien is entitled to share in the proceeds of sale in respect of the amount owing to him, although that amount or part thereof was not payable at the time of the commencement of the action or at the time of the distribution of the proceeds.

**67.**—(1) The court may make all orders necessary for the completion of a sale and for vesting an interest in premises in the purchaser. Orders for completion of sale

(2) Where an interest in the premises is sold under court order, or by a trustee appointed under Part IX, the proceeds of the sale shall be paid into court to the credit of the action. Payment into court of proceeds

(3) The court may add to the claim of the party having carriage of the action his fees and actual disbursements in connection with the sale. Fees and disbursements

(4) The court shall direct to whom the proceeds shall be paid in accordance with the priorities established by this Act. To whom proceeds paid

(5) Where the proceeds of the sale are not sufficient to satisfy the judgment and costs, the court shall certify the amount of the deficiency and give personal judgment in the appropriate amount to each person whose judgment is not satisfied out of the proceeds against each person who has been found liable to him. Where proceeds insufficient to satisfy judgment

**68.** Where a person believes that an amount that he has in his possession is subject to a trust under Part II, he may apply to the court for direction and the court may give such direction or make such order as the court considers appropriate in the circumstances. Application to court for directions

**69.**—(1) The procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question. Summary procedure

(2) Interlocutory proceedings, other than those provided for in this Act, shall not be taken without the consent of the court obtained upon proof that the proceedings are necessary or would expedite the resolution of the issues in dispute. Interlocutory proceedings

(3) Except where inconsistent with this Act, and subject to subsection (2), the *Judicature Act* and the Supreme Court Rules of Practice apply to pleadings and proceedings under this Act. Application of rules of practice  
R.S.O. 1980, c. 223

(4) The court may obtain the assistance of any merchant, accountant, actuary, building contractor, architect, engineer or other person in such a way as it considers fit, to enable it to determine better any matter of fact in question, and may fix the remuneration of such person and direct the payment thereof by any of the parties. Technical assistance

(5) A lien claimant whose claim is for an amount within the monetary jurisdiction of a small claims court may be represented by an agent who is not a barrister and solicitor. Representation by agent



## PART IX

## EXTRAORDINARY REMEDIES

Application  
for appoint-  
ment  
of trustee

**70.**—(1) Any person having a lien, or any other person having an interest in the premises, may apply to the court for the appointment of a trustee and the court may appoint a trustee upon such terms as to the giving of security or otherwise as the court considers appropriate.

Powers of  
trustee

(2) Subject to the supervision and direction of the court, a trustee appointed under subsection (1), may,

R.S.O. 1980,  
c. 379

(a) act as a receiver and manager and, subject to the *Planning Act* and the approval of the court, mortgage, sell or lease the premises or any part thereof;

(b) complete or partially complete the improvement; and

(c) take appropriate steps for the preservation of the premises.

Liens a  
charge on  
amounts  
recovered

(3) Subject to subsection 80 (7), all liens shall be a charge upon any amount recovered by the trustee after payment of the reasonable business expenses and management costs incurred by the trustee in the exercise of any power under subsection (2).

Sale  
subject to  
encumbrances

(4) Any interest in the premises that is to be sold may be offered for sale subject to any mortgage, charge, interest or other encumbrance that the court directs.

Orders for  
completion  
of sale, etc.

(5) The court may make all orders necessary for the completion of any mortgage, lease or sale by a trustee under this section.

Labour and  
material  
payment  
bonds

**71.**—(1) Where a labour and material payment bond is in effect in respect of an improvement, any person whose payment is guaranteed by that bond has a right of action to recover the amount of his claim, in accordance with the terms and conditions of the bond, against the surety on the bond, where the principal on the bond defaults in making the payment guaranteed by the bond.

Saving

(2) Nothing in this section makes the surety liable for an amount in excess of the amount that he undertakes to pay under the bond and the surety's liability under the bond shall be reduced by and to the extent of any payment made in good faith by the surety either before or after judgment is obtained against the surety.

(3) The surety, upon satisfaction of its obligation to any person whose payment is guaranteed by the bond, shall be subrogated to all the rights of that person. Subrogation

## PART X

### APPEALS

**72.**—(1) Where in the course of an action a question of law arises, the court may state the question in the form of a stated case for the opinion of the Court of Appeal, and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down the matter upon all parties concerned. Stated case

(2) The stated case shall set forth those facts material to the determination of the question raised. Facts to be set out

**73.**—(1) Subject to subsection (3), an appeal lies from a judgment or a report under this Act to the Divisional Court. Appeal to Divisional Court

(2) A party wishing to appeal a judgment or report shall file and serve his notice of appeal, Time for filing and serving notice of appeal

(a) prior to the confirmation of the report where the appeal is in respect of a report; or

(b) within fifteen days of the date of judgment in all other cases,

but the time for filing or serving the notice of appeal may be extended by the written consent of all parties, or by a single judge of the Divisional Court where an appropriate case is made out for doing so.

(3) No appeal lies from, Where no appeal lies

(a) a judgment or a report under this Act, where the amount of the judgment or report is \$1,000 or less; or

(b) an order made by the court on an interlocutory motion.

## PART XI

### PRIORITIES

**74.** A person who has supplied services or materials in respect of an improvement may enforce his lien despite the non-completion or abandonment of the contract or a subcontract by any other person. Enforcement of lien despite default



Assignment  
of lien  
rights

**75.** The rights of a person having a lien may be assigned by an instrument in writing and, if not assigned, upon his death pass to his personal representative.

Continuation  
of general  
lien

**76.**—(1) Subject to section 84, where one or more premises that are subject to an unpreserved general lien are sold, the general lien continues for the full amount of the lien against those premises that are subject to the lien, that were not sold.

Idem

(2) Where a person having a preserved or perfected general lien releases the lien against one or more of the premises subject to the lien, the lien continues for the full amount of the lien against those premises that were not released.

Effect of  
taking  
security

**77.**—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of proceedings for the recovery, or the obtaining of a personal judgment for the claim, does not in itself merge, waive, pay, satisfy, prejudice or destroy a lien.

Where note  
or bill  
negotiated

(2) Where any promissory note or bill of exchange has been negotiated, the person having the lien may still enforce the lien if he is the holder of the promissory note or bill of exchange at the time when he proves his claim.

Time not  
extended

(3) Nothing in this section extends the time for or dispenses with the requirement for the preservation or perfection of a lien.

Lien claimant  
deemed  
purchaser  
R.S.O. 1980,  
cc. 445, 230

**78.** Where a claim for lien is preserved by registration, the lien claimant shall be deemed to be a purchaser to the extent of his lien within the provisions of the *Registry Act* and *Land Titles Act*, but except as otherwise provided in this Act, those Acts do not apply to any lien arising under this Act.

Priority of  
liens over  
executions,  
etc.

**79.** The liens arising from an improvement have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders except those executed or recovered upon before the time when the first lien arose in respect of the improvement.

Priority  
over  
mortgages,  
etc.

**80.**—(1) Except as provided in this section, the liens arising from an improvement have priority over all conveyances, mortgages or other agreements affecting the owner's interest in the premises.

Building  
mortgage

(2) Where a mortgagee takes a mortgage with the intention to secure the financing of an improvement, the liens arising from the improvement have priority over that mortgage to the extent of any deficiency in the holdbacks required to be retained under Part V, irrespective of when that mortgage is registered.

(3) Subject to subsection (2), and without limiting the effect of subsection (4), all conveyances, mortgages or other agreements affecting the owner's interest in the premises that were registered prior to the time when the first lien arose in respect of an improvement have priority over the liens arising from the improvement to the extent of the lesser of,

- (a) the actual value of the premises at the time when the first lien arose; and
- (b) the total of all amounts that prior to that time were,
  - (i) advanced in the case of a mortgage, and
  - (ii) advanced or secured in the case of a conveyance or other agreement.

(4) Subject to subsection (2), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that was registered prior to the time when the first lien arose in respect of an improvement, has priority, in addition to the priority to which it is entitled under subsection (3), over the liens arising from the improvement, to the extent of any advance made in respect of that conveyance, mortgage or other agreement after the time when the first lien arose, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or
- (b) prior to the time when the advance was made, the person making the advance had received written notice of a lien.

(5) Where any mortgage is registered after the time when the first lien arose in respect of an improvement, the liens arising from the improvement have priority over the mortgage to the extent of any deficiency in the holdbacks required to be retained under Part V.

(6) Subject to subsections (2) and (5), a conveyance, mortgage or other agreement affecting the owner's interest in the premises that is registered after the time when the first lien arose in respect of the improvement, has priority over the liens arising from the improvement to the extent of any advance made in respect of that conveyance, mortgage or other agreement, unless,

- (a) at the time when the advance was made, there was a preserved or perfected lien against the premises; or

- (b) prior to the time when the advance was made, the person making the advance receives written notice of a lien.

Advances  
to trustee  
under  
Part IX

(7) Despite anything in this Act, where an amount is advanced to a trustee appointed under Part IX as a result of the exercise of any powers conferred upon him under that Part,

- (a) the interest in the premises acquired by the person making the advance takes priority, to the extent of the advance, over every lien existing at the date of the trustee's appointment; and
- (b) the amount received is not subject to any lien existing at the date of the trustee's appointment.

Where  
postponement

(8) Despite subsections (4) and (6), where a preserved or perfected lien is postponed in favour of the interest of some other person in the premises, that person shall enjoy priority in accordance with the postponement over,

- (a) the postponed lien; and
- (b) where an advance is made, any unpreserved lien in respect of which no written notice has been received by the person in whose favour the postponement is made at the time of the advance,

but nothing in this subsection affects the priority of the liens under subsections (2) and (5).

Saving

(9) Subsections (2) and (5) do not apply in respect of a mortgage that was registered prior to the day on which this Act comes into force.

Persons who  
comprise  
class

**81.** All persons having a lien who have supplied services or materials to the same payer comprise a class, and a person who has supplied services or materials to more than one payer is a member of every class to the extent to which his lien relates to that class.

Priority  
between  
and within  
class

**82.—(1)** Except where it is otherwise provided by this Act,

- (a) no person having a lien is entitled to any priority over another member of the same class;
- (b) all amounts available to satisfy the liens in respect of an improvement shall be distributed rateably among the members of each class according to their respective rights; and

- (c) the lien of every member of a class has priority over the lien of the payer of that class.

(2) Any conveyance or mortgage in respect of the premises to any person entitled to a lien on the premises, in payment of or as security for that claim, whether given before or after that lien arises, is void against all other persons entitled to a lien on the premises. Where conveyance or mortgage void

**83.**—(1) The lien of a worker has priority over the lien of any other person belonging to the same class to the extent of the amount of forty regular-time working days' wages. Worker's priority

(2) Where monetary supplementary benefits are payable to a workers' trust fund instead of to a worker, the trustee of the workers' trust fund is subrogated to the rights of the worker under this Act with respect to those benefits. Workers' trust fund

(3) Every device to defeat the priority given to workers by this section is void. Device to defeat workers' priority void

**84.** Where a general lien is realized against a premises in an action in which other liens are also realized against the premises, Subordination of general lien claims

- (a) the general lien shall rank with the other liens according to the rules of priority set out in section 82 only to the extent of,

- (i) the total value of the general lien,

divided by,

- (ii) the total number of premises to which the person having the general lien supplied services or materials under his contract or subcontract; and

- (b) in respect of the balance of the general lien, it shall rank next in priority to all other liens against the premises, whether or not of the same class.

**85.** Where a premises that is subject to a lien is destroyed in whole or in part, any amount received by the owner or a mortgagee by reason of any insurance on the premises shall take the place of the premises so destroyed and shall be distributed in accordance with the priorities set out in this Part. Application of insurance proceeds

**86.** Where an interest in premises is sold or leased under an order of the court or by a trustee appointed under Part IX, the proceeds received as a result of that disposition, together with Distribution of proceeds of sale

any amount paid into court under subsection 67 (2), shall be distributed in accordance with the priorities set out in this Part.

Priority  
between  
trust  
beneficiaries

**87.**—(1) Subject to section 10, all beneficiaries of the trust under Part II who have a lien have priority in the distribution of trust funds over those beneficiaries of the trust whose liens have expired.

Idem

(2) Priority in the distribution of trust funds between those beneficiaries who have liens shall be in accordance with the respective priorities of their liens as set out in this Part.

Idem

(3) Priority in the distribution of trust funds between those beneficiaries whose liens have expired shall be in accordance with the respective priorities to which those liens would have been entitled as set out in this Part had those liens not expired.

## PART XII

### MISCELLANEOUS RULES

Costs

**88.**—(1) Subject to subsection (2), any order as to the costs in an action, application, motion or settlement meeting is in the discretion of the court, and an order as to costs may be made against,

- (a) any party to the action or motion; or
- (b) the solicitor or agent of any party to the action, application or motion, where the solicitor or agent has,
  - (i) knowingly participated in the preservation or perfection of a lien, or represented a party at the trial of an action, where it is clear that the claim for lien is without foundation or is for a grossly excessive amount, or that the lien has expired, or
  - (ii) by his conduct prejudiced or delayed the conduct of the action,

and the order may be made on a solicitor-and-client basis, including where the motion is heard by, or the action has been referred under section 60 to, a master or an appointed local master.

Where least  
expensive  
course not  
taken

(2) Where the least expensive course is not taken by a party, the costs allowed to him shall not exceed what would have been incurred had the least expensive course been taken.



(3) Except where otherwise ordered by the court hearing an appeal, the costs of an appeal shall be on the scale of costs allowed in county court appeals where the amount involved is within the proper competence of the county court and where it exceeds that amount shall be on the Supreme Court scale.

**89.**—(1) Subject to subsection (3) and, except where otherwise ordered by the court, all documents and notices required to be given or that may be given under this Act are sufficiently given if served personally on the intended recipient, or if sent by certified or registered mail addressed to him at,

- (a) his address for service, if there is one; or
- (b) his last known mailing address according to,
  - (i) the records of the person sending the document, or
  - (ii) stated on the most recently registered instrument identifying him as a person having an interest in the premises.

(2) In the absence of evidence to the contrary, a document or notice sent to a person by certified or registered mail shall be deemed to have been received by him on the fifth day following the date on which it was mailed, exclusive of Saturdays and holidays.

(3) Except where otherwise ordered by the court, the following shall not be sent by certified or registered mail but shall be served personally upon the intended recipient:

- 1. Statement of claim.
- 2. Notice of trial or settlement meeting.
- 3. Notice under subsection 19 (1).
- 4. Notice of appeal.

(4) Where a document or notice is sent by registered mail, the date appearing on the postal registration receipt shall be deemed conclusively to be the date of mailing.

**90.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing forms and providing for their use;

(b) prescribing the appropriate offices of the Crown to which claims for lien must be sent;

(c) prescribing the form and manner of publication of copies of certificates and declarations of substantial performance under section 32.

Repeal

**91.** Sections 1 to 51 and section 53 of the *Mechanics' Lien Act*, being chapter 261 of the Revised Statutes of Ontario, 1980, are repealed.

Commence-  
ment and  
application

**92.**—(1) This Act comes into force on the 1st day of January, 1983, and applies to all contracts entered into on or after that date and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Transitional  
R.S.O. 1980,  
c. 261

(2) Despite section 91, the *Mechanics' Lien Act* continues to apply to all contracts entered into before the 1st day of January, 1983, and to the subcontracts arising under those contracts and to all services or materials supplied thereunder.

Idem

(3) Despite section 91, where a contract entered into before the 1st day of January, 1983 is amended in good faith on or after that date, the *Mechanics' Lien Act* applies to that amendment and to all subcontracts arising under it and to all services or materials supplied thereunder.

Short title

**93.** The short title of this Act is the *Construction Lien Act*, 1982.





BILL 139

An Act to revise the Mechanics' Lien Act

*1st Reading*

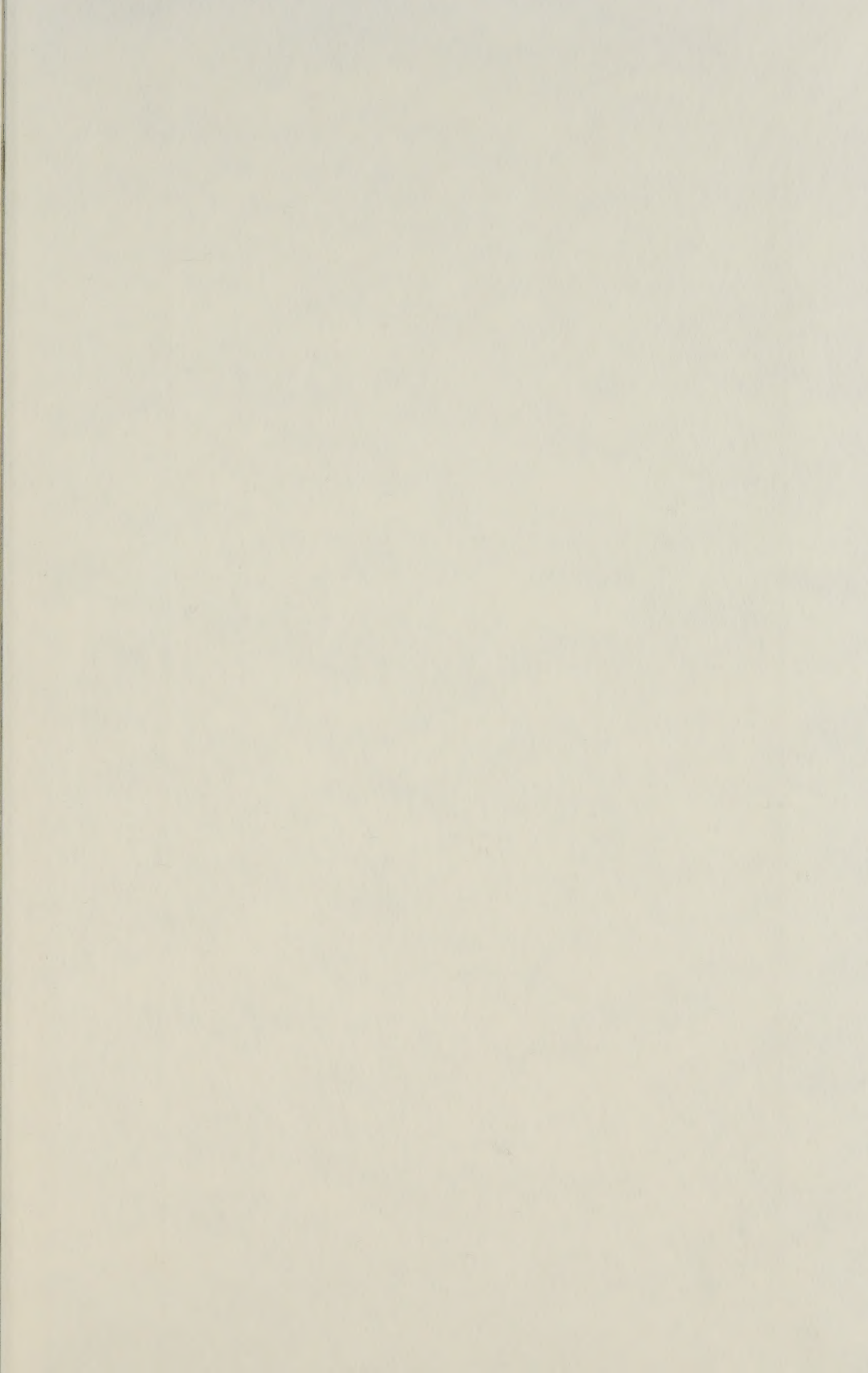
June 8th, 1982

*2nd Reading*

*3rd Reading*

THE HON. R. MCMURTRY  
Attorney General

*(Government Bill)*











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